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THE COUNTY COURT RULES,  
1903.



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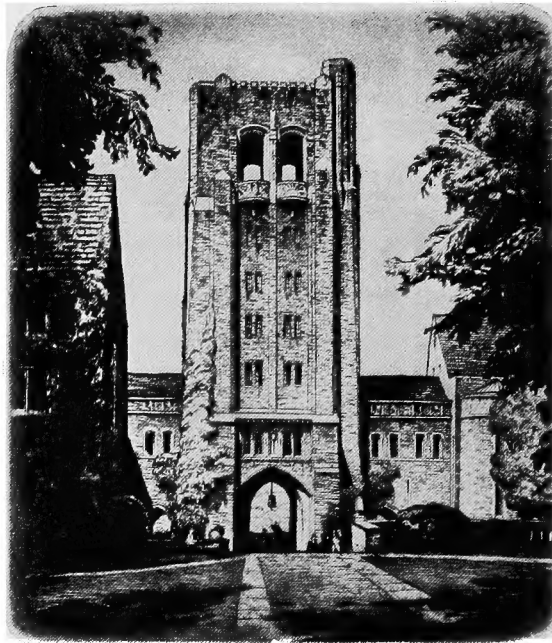
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# The Yearly County Court Practice

## 1904.

By G. PITT-LEWIS, K.C., Sir C. ARNOLD WHITE, and A. READ.

TOGETHER WITH AN  
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By His Honour JUDGE WOODFALL,

*A Member of the Rule Committee.*

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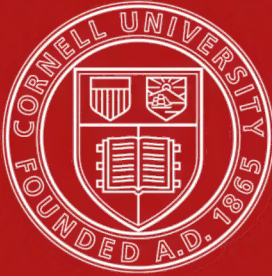
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ORDER XXV.			ORDER XXV.			ORDER XXV.
Rule 20a [Feb. '92]	...	Rule 33.	Rule 24	...	Rule 12a [Feb. '92].	
Rule 21a [Nov. '00]	...	Rule 34.	Rule 25 (1)	...	Rule 13.	
Rules 22-25	...	Rules 35-38.	Rule 25 (2, 3)			
Rule 26	...	Rule 40.	[new].			
Rule 27	...	Rule 39.	Rule 26 (1)	...	Rule 13.	
Rules 28-31	...	Rule 39.	Rule 26 (2)	...	Rule 14a [Feb. '92].	
Rule 32a [Feb. '92]	...	Rules 41-44.	Rule 26 (3)			
Rule 33	...	Rule 45.	[new].			
Rules 34-38	...	Rule 46 (4).	Rule 27	...	Rule 14b [July '92].	
Rule 38aa [April '95]	...	Rules 48-52.	Rule 28	...	Rule 15.	
Rule 38aa (1) [May '99]	...	Rule 53.	Rule 29	...	Rule 16 [amended May '99].	
Rule 38bb [April '95]	...	Rule 54.	Rule 30	...	Rule 17 [amended May '99].	
Rules 38c, 39a [April '95]	...	Rules 55, 56.	Rule 31 (1)	...	Rules 18, 18a [April '95].	
Rules 40a, 40b, 41a, 42a, 42b [Feb. '92].	...	Rules 57-61.	Rule 31 (2, 3)			
Rules 43-51	...	Rules 62-70.	[new].			
Rule 52 [Feb. '92]	...	Rule 71 (1).	Rule 32	...	Rule 19.	
ORDER XXVIA. [Feb. '92]	...	ORDER XXVI.	Rule 33	...	Rule 20a [Feb. '92].	
Rules 1-4	...	Rules 1-4.	Rule 34	...	Rule 21a [Nov. '00].	
Rule 5	...	Rule 5.	Rules 35-38	...	Rules 22-25.	
Rule 6	...	Rules 5, 6.	Rule 39	...	Rule 27.	
Rule 7	...	Rule 7.	Rule 40	...	Rule 26.	
Rules 8, 9	...	Rule 8.	Rules 41-44	...	Rules 28-31.	
Rules 10-13	...	Rules 9-12.	Rule 45	...	Rule 32a [Feb. '92].	
Rule 14	...	Rule 14.	Rule 46 (1-3)			
			[new].			
			Rule 46 (4)	...	Rule 33.	
			Rule 47 [new].			
			Rules 48-52	...	Rules 34-38.	

REFERENCE TABLE—*continued.*

Old.	New.	New.	Old.
ORDER XXVII.	ORDER XXVII.	ORDER XXV.	ORDER XXV.
Rule 1 [amended June '96].	Rule 1.	Rule 53 ...	Rules 38 <sup>aa</sup> [April '95], 38 <sup>aa</sup> (1) [May '99], Rule 38 <sup>bb</sup> [April '95].
Rule 1 <sup>a</sup> [April '95] ...	Rule 1.	Rule 54 ...	Rule 38 <sup>c</sup> [April '95].
Rule 1 <sup>b</sup> [Dec. '96] ...	Rule 2.	Rule 55 ...	Rule 39 <sup>a</sup> [April '95].
Rules 2, 3... ...	Rules 3, 4.	Rule 56 ...	Rules 40 <sup>a</sup> , 40 <sup>b</sup> , 41 <sup>a</sup> 42 <sup>a</sup> , 42 <sup>b</sup> [Feb. '92].
Rule 4 <sup>a</sup> [Feb. '92] ...	Rule 5.	Rules 57-61 ...	Rules 43-51.
Rules 5-11 ...	Rules 6-12.	Rules 62-70 ...	Rule 52 [Feb. '92].
Rule 12 <sup>a</sup> [Feb. '92] ...	Rule 13.	Rule 71 (1) ...	
Rule 12 <sup>b</sup> [April '95] ...	Rule 14.	Rule 71 (2-4) [new].	
Rule 13 <sup>a</sup> [June '96] ...	Rule 15.	Rules 72, 73 [new].	
		ORDER XXVI.	ORDER XXVIA. [Feb. '92.]
ORDER XXVIII.	ORDER XXVIII.	Rules 1-4 ...	Rules 1-4.
Rules 1-3... ...	Rules 1-3.	Rule 5 .. ...	Rules 5, 6.
		Rule 6... ...	Rule 6.
		Rule 7... ...	Rule 7.
ORDER XXIX.	ORDER XXIX.	Rule 8... ...	Rules 8, 9.
Rules 1-6... ...	Rules 1-6.	Rules 9-12 ...	Rules 10-13.
		Rule 13 [new].	
ORDER XXX.	ORDER XXX.	Rule 14 ...	Rule 14.
Rules 1-12 ...	Rules 1-12.	Rules 15-17 [new].	
		ORDER XXVII.	ORDER XXVII.
ORDER XXXI.	ORDER XXXI.	Rule 1 ...	Rule 1 [amended June '96].
Rule 1 <sup>a</sup> [Feb. '92] ...	Rule 1.	Rule 2 ...	Rule 1 <sup>a</sup> [April '95]. Rule 1 <sup>b</sup> [Dec. '96].
Rule 2 ...	Rule 2.	Rules 3, 4 ...	Rules 2, 3.

REFERENCE TABLE—*continued*.

Old.	New.	New.	Old.
ORDER XXXII. — Rules 1-4... ..	ORDER XXXII. — Rules 1-4.	ORDER XXVII. — Rule 5... .. Rules 6-12 ... Rule 13 ... Rule 14 ... Rule 15 ...	ORDER XXVII. — Rule 4a [Feb. '92], Rules 5-11. Rule 12a [Feb. '92]. Rule 12b [April '95]. Rule 13a [June '96].
ORDER XXXIII. — Rules 1-8... .. Rule 9 (1) [May '99] ... Rule 9a (1) [May '99] ... Rule 9b [April '95] . ... Rule 10a (1) [May '99]... Rule 10aa [May '99] ... Rule 10b [July '92] ... Rule 10c [April '95] ... Rule 11 ... .. Rule 11a [May '99] ... Rule 11b [May '99] ... Rule 12 [June '96] ...	ORDER XXXIII. — Rules 1-8. Rule 9. Rule 10. Rule 11. Rule 12. Rule 13. Rule 16. Rule 18. Rule 17. Rule 14. Rule 15. Rule 19.	ORDER XXVIII. — Rules 1-3 ... ORDER XXIX. — Rules 1-6 ... ORDER XXX. — Rules 1-12 ... ORDER XXXI. — Rule 1... .. Rule 2... ..	ORDER XXVIII. — Rules 1-3. ORDER XXIX. — Rules 1-6. ORDER XXX. — Rules 1-12. ORDER XXXI. — Rule 1a [Feb. '92]. Rule 2.
ORDER XXXIV. — Rules 1-6... ..	ORDER XXXIV. — Rules 1-6.	ORDER XXXII. — Rules 1-4 ... ORDER XXXIII. — Rules 1-8 ... Rule 9... .. Rule 10. ... Rule 11 ... Rule 12 ...	ORDER XXXII. — Rules 1-4. ORDER XXXIII. — Rules 1-8. Rule 9 (1) [May '99]. Rule 9a (1) [May '99]. Rule 9b [April '95]. Rule 10a (1) [May '99].
ORDER XXXV — Rules 1-3 ... .. Rule 4 [Feb. '92] ...	ORDER XXXV. — Rules 2-4. Rule 1.		

REFERENCE TABLE — *continued.*

Old.	New.	New.	Old.
ORDER XXXVI. Rules 1, 2 ... ..	ORDER XXXVI. Rules 1, 2.	ORDER XXXIII. Rule 13 ... Rule 14 ... Rule 15 ... Rule 16 ... Rule 17 ... Rule 18 ... Rule 19 ...	ORDER XXXIII. Rule 10 <sup>aa</sup> [May '99]. Rule 11 <sup>a</sup> [May '99]. Rule 11 <sup>b</sup> [May '99]. Rule 10 <sup>b</sup> [July '92]. Rule 11. Rule 10 <sup>c</sup> [April '95]. Rule 12 [June '96].
ORDER XXXVII. Rules 1-5 ... ..	ORDER XXXVII. Rules 1-5.	ORDER XXXIV. Rules 1-6 ...	ORDER XXXIV. Rules 1-6.
ORDER XXXVIII. Rule 1 ... .. Rules 2-29 .. ..	ORDER XXXVIII. Rule 1. Rules 3-30.	ORDER XXXV. Rule 1... ... Rules 2-4 ...	ORDER XXXV. Rule 4 [Feb. '92]. Rules 1-3.
ORDER XXXVIII <sup>A</sup> . [1895.] Rules 1-10 ... .. Rule 11 [Nov. 1900] ...	ORDER XLII. Rules 2-11. Rule 12.	ORDER XXXVI. Rules 1, 2 ...	ORDER XXXVI. Rules 1, 2.
ORDER XXXVIII <sup>B</sup> . [April '95.] Rules 1-7 ... ..	ORDER XLIII. Rules 1-7.	ORDER XXXVII. Rules 1-5 ... Rule 6 [new].	ORDER XXXVII. Rules 1-5.
ORDER XXXIX <sup>A</sup> . [Dec. '89.] Rules 1-4 ... .. Rule 5 ... .. Rule 6 ... .. Rule 7 [Nov. 1900] ...	ORDER L. Rules 23-26. Rule 29. Rule 30. Rule 23.	ORDER XXXVIII. Rule 1... ... Rule 2 [new]. Rules 3-30 ... Rule 31 [new].	ORDER XXXVIII. Rule 1. Rules 2-29.

REFERENCE TABLE—*continued.*

Old.	New.	New.	Old.
ORDER XXXIXB. [Feb. '92.]	ORDER XXXIX.	ORDER XXXIX.	ORDER XXXIXB. [Feb. '92.]
Rules 1-6 ... ..	Rules 1-6.	Rules 1-6 ...	Rules 1-6.
Rule 7 ... ..	Rule 8.	Rule 7 [new].	
Rules 8 <i>a</i> (1), 8 <i>b</i> (1) [May '99].	Rules 9, 10.	Rule 8... ..	Rule 7.
Rules 9-21 ... ..	Rules 11-23.	Rules 9, 10 ...	Rules 8 <i>a</i> (1), 8 <i>b</i> (1) [May '99].
Rules 22 <i>a</i> , 23 <i>a</i> [May '99]	Rules 35, 36.	Rules 11-23 ...	Rules 9-21.
Rule 24 ... ..	Rule 37.	Rules 24-34 [new].	
Rules 25-28 ... ..	Rules 39-42.	Rules 35, 36 ...	Rules 22 <i>a</i> , 23 <i>a</i> [May '99].
Rules 29-32 ... ..	Rules 44-47.	Rule 37 ...	Rule 24.
Rules 33-36 ... ..	Rules 50-53.	Rule 38 [new].	
Rules 37 <i>a</i> -37 <i>e</i> , 38 <i>a</i> , 39 <i>a</i> -39 <i>e</i> [May '99].	Rules 54-64.	Rules 39-42 ...	Rules 25-28.
Rule 40 [amended Nov. '00].	Rule 65.	Rule 43 [new].	
Rule 41 ... ..	Rule 66.	Rules 44-47 ...	Rules 29-32.
Rule 42 ... ..	Rule 68.	Rules 48, 49 [new].	
Rule 43 <i>a</i> [May '99] ...	Rule 69.	Rules 50-53 ...	Rules 33-36.
Rules 44-46 ... ..	Rules 70-72.	Rule 53 <i>A</i> . [new].	
Rule 47 ... ..	Rules 32 (3), 111.	Rules 54-64 ...	Rules 37 <i>a</i> -37 <i>e</i> , 38 <i>a</i> , 39 <i>a</i> -39 <i>e</i> [May '99].
Rules 48 <i>a</i> -48 <i>c</i> , 49 <i>a</i> , 50 <i>a</i> -50 <i>d</i> [May '99].	Rules 73-80.	Rule 65 ...	Rule 40 [amended Nov. '00].
Rules 51-63 ... ..	Rules 81-93.	Rule 66 ...	Rule 41.
Rule 64 ... ..	Rules 94, 95.	Rule 67 [new].	
Rules 65-80 ... ..	Rules 96-110, 112.	Rule 68 ...	Rule 42.
		Rule 69 ...	Rule 43 <i>a</i> [May '99].
		Rules 70-72 ...	Rules 44-46.
		Rules 73-80 ...	Rules 48 <i>a</i> -48 <i>c</i> , 49 <i>a</i> , 50 <i>a</i> -50 <i>d</i> [May '99].
ORDER XLA. [Nov. '00.]	ORDER XL.	Rules 81-93 ...	Rules 51-63.
Rules 1-8.. ... ..	Rules 1-8.	Rules 94, 95 ...	Rule 64.

REFERENCE TABLE—*continued.*

Old.	New.	New.	Old.
ORDER XLIA. [Nov. '00.] Rules 1-12 ... ..	ORDER XLI. Rules 1-12.	ORDER XXXIX. Rules 96-110... Rule 111 [new]. Rule 112 ...	ORDER XXXIXB. [Feb. '92.] Rules 65-79. Rule 80.
ORDER XLIIA. [Feb. '92.] Rules 1-4... ..	ORDER L. Rules 19-21.	Rules 113, 114 [new].  ORDER XL. Rules 1-8 ...	ORDER XLA. [Nov. '00] Rules 1-8.
ORDER XLIIIB. [Feb. '92.] Rule 1 ... ..	ORDER L. Rule 17.	ORDER XLI. Rules 1-12 ...	ORDER XLIA. [Nov. '00]. Rules 1-12.
ORDER XLIII. Rules 1-3... ..	ORDER L. Rules 6-8.	ORDER XLII. Rule 1 [new]. Rules 2-11' ... Rule 12 ...	ORDER XXXVIII A. [1895.] Rules 1-10. Rule 11 [Nov. '00].
ORDER XLIV. Rule 1 [amended May '99]. Rules 2-15 ... .. Rule 16a [Feb. '92] ... Rules 17-19 ... ..	ORDER XLIV. Rule 1. Rules 2-15. Rule 16. Rules 17-19.	ORDER XLIII. Rules 1-7 ... Rule 8 [new].  ORDER XLIV. Rule 1... ... Rules 2-15 ...	ORDER XXXVIII B. [April '95.] Rules 1-7.  ORDER XLIV. Rule 1 [amended May '99]. Rules 2-15.
ORDER XLV. Rules 1-11 ... ..	ORDER XLV. Rules 1-11.	Rule 16 ... Rules 17-19 ...	Rule 16a [Feb. '92]. Rules 17-19.



REFERENCE TABLE—*continued.*

Old.	New.	New.	Old.
ORDER XLVI. Rules 1, 2... ..	ORDER XLVI. Rule 2.	ORDER XLV. Rules 1-11 ...	ORDER XLV. Rules 1-11.
ORDER XLVII. Rules 1-9... ..	ORDER XLVII. Rules 1-9.	ORDER XLVI. Rule 1 [new]. Rule 2... ..	ORDER XLVI. Rules 1, 2.
ORDER XLVIII. Rules 1-20 ... ..	ORDER XLVIII. Rules 1-20.	ORDER XLVII. Rules 1-9 ... Rule 10 [new].	ORDER XLVII. Rules 1-9.
ORDER XLVIII A. [July '92.] Rules 1-3... ..	ORDER XLVIII. Rules 21-23.	ORDER XLVIII. Rules 1-20 ... Rules 21-23 ... Rule 24 [new].	ORDER XLVIII. Rules 1-20. Order XLVIII A. [July '92], Rules 1-3.
ORDER XLIX A. [Nov. '00.] Rules 1-5... .. Rules 6-11 ... ..	ORDER XLIX. Rules 1-5. Rules 7-12.	ORDER XLIX. Rules 1-5 ... Rule 6 [new]. Rules 7-12 ...	ORDER XLIX A. [Nov. '00.] Rules 1-5. Rules 6-11.
ORDER LA. [Feb. '92.] Rules 1-3... .. Rules 4-6... .. Rule 6a [April '95]. See Scale of Costs.	ORDER LIII. Rules 1-3. Rules 5-7.	ORDER L. Rules 1-5 [new]. Rules 6-8 ... Rules 9 - 16 [new]. Rule 17 ... Rule 18 [new]. Rules 19-21 ...	Order XLIII., Rules 1-3. Order XLII B. [Feb. '92], Rule 1. Order XLII A. [Feb. '92], Rules 1-3.

## REFERENCE TABLE—continued.

Old.	New.	New.	Old.
ORDER LA. [Feb. '92.]	ORDER LIII.	ORDER L.	
Rule 6 <i>b</i> [June '96] ...	Rule 10.	Rule 22 ...	New.
Rules 7, 8 ...	Rules 8, 9.	Rules 23-26 ...	Order XXXIXA. [Dec. '89], Rules 1-4.
Rule 9 ...	Rule 11	Rules 27, 28 [new].	
Rule 9 <i>a</i> [April '95] ...	Rule 12.	Rules 29, 30 ...	Order XXXIXA. [Dec. '89], Rules 5, 6.
Rules 10-21 ...	Rules 13-24.	Rules 31 - 33 [new].	
Rules 22-24 ...	Rules 27-29.	Rule 34 ...	Order LI., Rule 24 <i>b</i> [Jan. '01].
Rules 25-32 ...	Rules 37-44.	Rule 35 ...	Order LI., Rule 25.
Rule 33 [May '99] ...	Rule 45.	Rule 36 ...	Order LI., Rule 26.
		ORDER LI.	ORDER LC. ['97].
ORDER LB. [April '95.]	ORDER LII.	Rules 1-28 ...	Rules 1-28.
Rules 1-6 ...	Rules 1-6.		
Rule 7 ...	Order XVIII., Rule 3.	ORDER LII.	ORDER LB. [April '95].
Rules 8, 9 ...	Rules 7, 8.	Rules 1-6 ...	Rules 1-6.
Rule 10 [spent] ...		Rules 7, 8 ...	Rules 8, 9.
Rules 11, 12 [June '96]...	Rules 9, 10.	Rules 9, 10 ...	Rules 11, 12 [June '96].
		ORDER LIII.	ORDER LA. [Feb. 92].
ORDER LC. ['97.]	ORDER LI.	Rules 1-3 ...	Rules 1-3.
Rules 1-28 ...	Rules 1-28.	Rule 4 [new].	
		Rules 5-9 ...	Rules 4-8.
		Rule 10 ...	Rule 6 <i>b</i> [June '96].
ORDER LI.	ORDER LIV.	Rule 11 ...	Rule 9.
Rule 1 ...	Rule 1.	Rule 12 ...	Rule 9 <i>a</i> [April 95].
Rule 2 <i>a</i> [Feb. '92] ...	Rule 3.	Rules 13-24 ...	Rules 10-21.
Rules 3-5 ...	Rules 4-6.	Rules 25, 26 [new.]	

REFERENCE TABLE—*continued.*

Old.	New.	New.	Old.
ORDER LI.		ORDER LIII.	ORDER LA. [Feb. '92].
Rule 6 ... ..	Order VII., Rule 40.	Rules 27-29 ...	Rules 22-24.
Rules 7-9 ... ..	Order LIV., Rules 7-9.	Rules 30 - 36 [new].	
Rule 10 <i>a</i> [Feb. '92] ...	Rule 10.	Rules 37-44 ...	Rules 25-32. †
Rules 11, 12 ... ..	Rules 11, 12.	Rule 45 ...	Rule 33 [May '99].
Rule 13 ... ..	Order XXIV., Rules 22, 24, 25.	Rules 46, 47 [new].	
Rule 14 ... ..	Order XXIV., Rule 26.	ORDER LIV.	ORDER LI.
Rules 15, 16 ... ..	Order LIV., Rules 13, 14.	Rule 1 ... ..	Rule 1.
Rules 17-22 ... ..	Rules 16-21.	Rule 2 [new].	
Rule 23 ... ..	Order VII., Rules 41-49.	Rule 3 ... ..	Rule 2 <i>a</i> [Feb. '92].
Rule 24 ... ..	Order LIV., Rule 22.	Rules 4-9 ...	Rules 3-5, 7-9.
Rule 24 <i>a</i> [May '99] ...	Rule 26.	Rule 10 ...	Rule 10 <i>a</i> [Feb. '92].
Rule 24 <i>b</i> (1) [Jan. '01] ...	Order L., Rule 34.	Rules 11, 12 ...	Rules 11, 12.
Rules 25, 26 ... ..	Order L., Rules 35, 36.	Rules 13, 14 ...	Rules 15, 16.
Rules 27-29 ... ..	Rules 23-25.	Rule 15 [new].	
		Rules 16-21 ...	Rules 17-22.
		Rule 22 ...	Rule 24.
		Rules 23-25 ...	Rules 27-29.
		Rule 26 ...	Rule 24 <i>a</i> [May '99].
ORDER LII.	ORDER LV.	ORDER LV.	ORDER LII.



# THE COUNTY COURT RULES, 1903.

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The following Orders and Rules may be cited as "The County Court Rules, 1903," and shall apply, so far as may be practicable, (unless otherwise expressly provided,) to all proceedings taken in all actions and matters pending on the day on which these Rules come into force.

The County Court Rules, 1889, and all County Court Rules of subsequent date, are hereby annulled, and the following Orders and Rules shall stand in lieu thereof.

## ORDER I.

### COURT AND OFFICES.

1. Every judge shall appoint the days and hours for holding his courts ; and a notice of the day and hour on which each court is to be held shall, three months before the holding thereof, be affixed in some conspicuous place in the court-house and in the registrar's office ; and whenever any day or hour so appointed for holding a court is altered, notice of such alteration shall immediately be affixed in like manner ; but any judge may from time to time hold additional and adjourned courts. [Order I., Rule 1.]

Appoint-  
ment and  
notice of  
sittings of  
court.

Additional  
or  
adjourned  
courts.

2. Two courts shall not be held before the same judge on one day, unless with the consent of the Lord Chancellor ; but this rule shall not apply to the holding of an additional or adjourned court, or to the City of London Court. [Rule 2.]

No two  
courts to be  
held on  
same day.

3. An office shall be kept open by the registrar at each place where the court of which he is registrar is held, and such office shall be kept open every day from ten o'clock in the morning until four o'clock in the afternoon, except on Christmas Day, Good Friday, the Saturday next after Good Friday, Easter Monday, Easter Tuesday, Whit

On what  
days regis-  
trar to keep  
county  
court office  
open.

**ORDER I.** Monday, the first Monday in August, or any day appointed by royal proclamation for a public fast, humiliation, or thanksgiving, or any day appointed for closing the same by the Lord Chancellor ; provided that the office may be closed at one o'clock in the afternoon on Saturday, or if for any reason it would be more convenient that the office should be closed on some other day, the office may be closed at one o'clock on some other day of the week instead of Saturday, which day shall be fixed upon for such purpose by the judge, and shall not afterwards be changed except by his leave : Provided also, that an office need not be kept open in more than one place within the district of a court, although the court is held at more than one place within the district, unless the Lord Chancellor otherwise orders : And provided also, that during the days on which the court is held in any place within the district other than the place where the registrar's office is situate, or during the days on which an office is open at any such other place, the office may be closed in the place in which it is required generally to be kept open. [Rule 3, altered.]

Keeping  
open office  
at place  
where no  
court is  
held.

4. By order of the Lord Chancellor, an office may be kept open by the registrar at any place within the district of a court at such times and for such purposes as the order may direct, although no court may be held at such place. [Rule 3a, Dec. 1889.]

Offices may  
be closed  
by order.

5. The offices of the courts, or any of them, may from time to time be closed by special order of the Lord Chancellor on such days as may be mentioned in any such order. [Rule 4.]

## **ORDER II.**

## **ORDER II.**

### **OFFICERS.**

#### *Registrar.*

Absence of  
registrar or  
deputy re-  
gistrar  
from court.

1. Whenever the registrar or his lawful deputy is absent from the sitting of a court, the judge shall appoint a deputy to act on behalf of the registrar ; and an entry of such appointment and of the cause of such absence (when ascertained) shall be made on the minutes of the court. [Order II., Rule 1.]

2. The registrar shall keep books in the forms given in Part II of the ORDER II.  
Appendix, subject as follows :

Where book A is used, neither books B, C, D, or E shall be used, Registrar to keep books.  
but book F shall be used. Appendix, Part II.

Where books B and C are used, neither books A, D, or E shall be used, but book F shall be used.

Where books D and E are used, books A and B shall not be used, but book C may be used ; and if book C be used, book F shall be used.

Where the number of complaints entered in a court has exceeded 2000, and book A is not used, books C and F shall be used, and either book B or books D and E.

Every registrar acting as high bailiff may keep book K instead of books L, N, and T.

Every entry in such books shall have a number prefixed, corresponding with the number of the complaint to which the entry relates. [Rule 2.]

3. The registrar shall file all documents delivered to him in any action or matter, and shall distinguish them by the number of the complaint in respect of which they are filed, and from each other, by a distinctive letter of the alphabet, and he shall enter in the " Notice Book " the fact of the despatch of all summonses to foreign courts, and of all documents, notices, and letters sent by him to any party, and all particulars required by the form of such book. Documents to be filed and distinguished by number of complaint, and by letters.  
[Rule 3.]

4. The registrar shall issue all summonses, warrants, and orders of commitment forthwith after the complaints are entered or the warrants or orders are applied for. Registrar to issue all processes.  
[Rule 4.]

5. Where a summons is required to be served in a foreign district, the registrar shall transmit the same and a copy thereof to the bailiff of the foreign court within twenty-four hours after the complaint is entered, with a letter according to one or other of the forms in the Appendix, unless the judge of the home court orders the summons in any particular case to be served by the bailiff of such court ; and where any summons is returned to the registrar of the home court Transmission of summons for service in foreign district. Forms 27, 28. Notice of non-service.

**ORDER II.** by a bailiff of a foreign court, not served, the registrar shall forthwith  
**Form 30.** give notice to the plaintiff of such non-service: The letter need not be transmitted from one metropolitan court to another, except with default summonses. [Rule 5.]

**Notice of doubtful service in foreign district.** 6. Where by the indorsement on the copy of a summons made by a bailiff of a foreign court it appears that the summons was delivered to some person at the place mentioned in the summons as the residence or place of business of the defendant, but from the indorsement of the statement made by such person it appears doubtful whether the court will be satisfied that the service of the summons has come to the knowledge of the defendant before the return day, the registrar of the home court shall forthwith on receiving back such copy send to  
**Form 31.** the plaintiff a notice according to the form in the Appendix. [Rule 6.]

**Copies of documents, how made.** 7. Copies of all proceedings or documents in the custody of the court or its officers shall be prepared by the registrar for any party entitled to require the same, upon prepayment of the costs of such copies. [Rule 7.]

**Particulars to be annexed to summons. Copy of summons to be delivered to bailiff.** 8. The registrar shall, in all cases where by these rules particulars are required, annex to the summons a copy of the plaintiff's particulars, sealed with the seal of the court; and shall also make and deliver to the bailiff a true copy of the summons. [Rule 8.]

**Payment into court.** 9. Moneys to be paid into court under the order of the judge or otherwise may be so paid during office hours on every day on which the office is open. [Rule 9.]

**Searches and payment out of court.** 10. The registrar shall allow searches to be made, and shall pay out upon demand, in cash if required, the money to which suitors are entitled, on such proof of title thereto as is prescribed by Order IX., Rule 21, on three days at the least in each week, such days to be fixed by the registrar from time to time, with the approbation of the judge, and to be printed or written on the plaint note. For the purpose, however, of enabling the registrar to furnish the list of balances in the ledgers according to the requirements of the Treasury, no searches shall be made or money paid out of court during one week in each year, provided that due notice of such week shall have



been affixed in some conspicuous place in the office of the registrar ORDER II.  
a month beforehand. [Rule 10a, Feb. 1892.]

11. Whenever money is paid into or deposited in court, whether before or after judgment, an acknowledgment in writing of such payment or deposit shall be given. [Rule 11.] Acknowledgment of payments and deposits.

12. The books of the court, including the bankers' book and cash book, shall at all times be open to the inspection of the treasurer. [Rule 12.] Court books to be produced to treasurer.

13. No registrar, deputy registrar, registrar's clerk, high bailiff, bailiff, broker, or other officer of the court, and no partner or clerk of any such officer, shall, on account of suitors, sign the ledger or any other book, or receive money or otherwise act as an agent for that purpose. [Rule 13.] No officer to act as agent to parties.

14. Before executing any order directing the payment or transfer of any fund, or part of any fund, in respect of which any duty shall be payable to the revenue under the Acts relating to legacy, succession, or estate duty, it shall be the duty of the registrar, before making the payment, to require a certificate from the proper officer of, or the production of the receipt for, the payment of the duty chargeable in respect of such fund, or such part thereof. [Rule 14, altered.] Where legacy, succession, or estate duty payable, it must be paid before execution of order directing payment or transfer of funds.

15. Where any judge acting for any other judge under section nineteen of the Act signs any document, the registrar shall make a memorandum at the foot thereof according to the form in the Appendix. [Rule 15.] Memorandum where one judge signs document for another. 51 & 52 Vict. c. 43. s. 19. Form 4.

16. Every registrar shall comply with the regulations which may from time to time be made by the Treasury for the safe custody of any securities deposited with him under section seventy of the Act. [Rule 16.] Custody of securities. 51 & 52 Vict. c. 43. s. 70.

### *High Bailiff.*

17. Whenever the high bailiff is absent from the sitting of a court, he shall transmit to the registrar a statement in writing of the cause of Absence of high bailiff from court.

**ORDER II.** his absence, and an entry of the cause of such absence shall be made by the registrar on the minutes of the then sitting or the next succeeding court. [Rule 17.]

High  
bailiff to  
keepbooks.  
Appendix,  
Part II.

18. The high bailiff shall keep books and make returns according to the forms in Part II of the Appendix. [Rule 18.]

Attend-  
ance at  
office of  
registrar.  
[Rule 19.]

19. The high bailiff or a bailiff of the court shall attend for the purpose of receiving processes, and for the performance of other duties, at the office of the registrar once at least every day during the hours it is open ; and shall compare and examine all processes delivered to him by the registrar, so as to enable him to prove their correctness.

Keeping  
open an  
office.

20. An office of the high bailiff of a court in which the plaints entered have exceeded six thousand in any one year shall be kept open for the purpose of answering inquiries, giving information, or for any other purpose connected with the duties of the high bailiff, during the same hours as the office of the registrar of the court is to be kept open. [Rule 20.]

Service of  
process.

21. The high bailiff shall serve or cause to be served process issued out of the court of which he is high bailiff, or sent to him for service from other courts, as soon as practicable. [Rule 21.]

Service  
and in-  
dorsement  
where de-  
fendant has  
removed  
to new  
address  
within  
district.

22. Where the bailiff to whom a summons has been delivered for service ascertains in sufficient time before the return day, and before notice of non-service has been sent, that the defendant has removed from the address given on the summons to some other address within the district, it shall be his duty to effect service of the summons as if the actual address had been given on the summons, and to indorse the new address upon the copy retained by him. [Rule 21a, Feb. 1892.]

Indorse-  
ment of  
service  
or non-  
service on  
copy of  
summons.  
Forms 29,  
32, 34.

23. If the service of a summons has been personal, the bailiff who served the same shall indorse on the copy of the summons delivered to him by the registrar the fact of such service ; and if the service has not been personal, he shall indorse on such copy the mode of service so as to show that the provisions as to service which are applicable to the case have been complied with, and any statement made by the

person to whom the summons was delivered, and any other circumstance from which it may be inferred that the service of the summons has come to the knowledge of the defendant; and in every case of service the bailiff shall indorse on such copy the place where service was effected; and if the summons has not been served, the bailiff shall indorse on such copy the reason of such non-service: and all indorsements on summonses shall be signed by the bailiff. The high bailiff shall deliver to the registrar the copy of every summons which has been served, and also the summons itself when not served, together with the list of summonses mentioned in Rule 30 of this Order, and such copies and summonses shall be produced by the registrar or high bailiff, as the judge may require. [Rule 22.]

ORDER II.

Return of copy summons, and of summons not served.

24. Where an ordinary summons or a judgment summons required to be served in a home district has not been served, the high bailiff shall forthwith give notice to the plaintiff of the fact of such non-service according to the form in the Appendix. [Rule 23a, Feb. 1892.]

Notice of non-service in home district. Form 30.

25. Where by the indorsement on the copy of an ordinary summons required to be served in a home district it appears that the summons was delivered to some person at the place mentioned in the summons as the residence or place of business of the defendant, but from the indorsement of the statement made by such person it appears doubtful whether the court will be satisfied that the service has come to the knowledge of the defendant before the return day, the high bailiff shall forthwith send to the plaintiff a notice according to the form in the Appendix. [Rule 24.]

Notice of doubtful service in home district.

Form 31.

26. (1.) Where a summons is issued against a company registered under the Companies Acts, 1862 to 1900, it shall be the duty of the bailiff to whom such summons is delivered for service to ascertain at the address given on the summons whether the registered office of the company is situate at such address.

Inquiry, service, and indorsement on summons against registered company. 25 &amp; 26 Vict. c. 89, ss. 62, 63.

(2.) If the bailiff ascertains, either by seeing the words "registered office" painted or affixed on the outside of the premises, or by inquiry at the premises, that the registered office of the company is situate at the address given on the summons, he shall effect service of the

**ORDER II.** summons at such address, and shall indorse on the copy of the  
**Form 32** summons the fact and mode of such service, and the fact that he has  
**(1).** ascertained in one or other of the modes aforesaid that the registered  
office of the company is situate at the address given.

**Form 32** (3.) If the bailiff ascertains in sufficient time before the return day,  
**(1).** and before notice of non-service has been sent, that the registered office  
of the company is situate at some other address within the district, it shall  
be his duty to effect service of the summons at such other address, and  
to indorse on the copy of the summons the new address, and the fact  
that he has ascertained that the registered office of the company is  
situate at such address.

**Form 32** (4.) If the bailiff is unable to ascertain whether the registered office  
**(2).** of the company is situate at the address given on the summons, he  
shall effect service of the summons at such address, but shall indorse  
on the copy of the summons a statement to the effect that he has been  
unable to ascertain whether the registered office of the company is  
situate at such address : and the high bailiff, or, where the summons  
has been sent to a foreign court for service, the registrar of the home  
court, on the return of the copy of the summons, shall forthwith send  
**Form 33.** to the plaintiff a notice according to the form in the Appendix. In  
such case, if the company does not appear on the return day, the  
action shall not proceed unless the court is satisfied, on the evidence  
before it, that the registered office of the company is situate at the  
address given ; and the court, if not so satisfied, may either adjourn  
the action to a future day for further evidence, or order it to be struck  
out, or order a successive summons to issue, as to it may seem just.

**Form 32** (5.) If the bailiff ascertains that the registered office of the company  
**(3).** is not situate at the address given on the summons, and does not  
ascertain that it is situate at some other address within the district,  
he shall make an indorsement to that effect on the copy of the  
summons, and return the summons itself as not served, in which case  
notice of non-service shall be given to the plaintiff as in other cases of  
**Form 30.** non-service. [Rule 24a, May, 1899.]

**Return of  
copy of  
ordinary  
summons  
served**

27. Where an ordinary summons is required to be served in a  
foreign district, the high bailiff of the foreign court shall, eight clear  
days at least before the return day, transmit the copy thereof to the

registrar of the home court duly indorsed and signed by the bailiff, (who shall name the court of which he is a bailiff,) and also the summons itself when not served. [Rule 25.]

ORDER II.  
by bailiff  
of foreign  
court.

28. Where a judgment summons is required to be served in a foreign district, the high bailiff of the foreign court shall, three clear days at least before the return day, transmit the copy thereof to the registrar of the home court duly indorsed and signed by the bailiff, (who shall name the court of which he is a bailiff), and also the summons itself when not served. [Rule 25a, Feb. 1892.]

Return of  
copy of  
judgment  
summons  
served  
by bailiff  
of foreign  
court.

29. (1.) Where the high bailiff of a foreign court neglects to return to the registrar of the home court the copy of an ordinary summons or a judgment summons as required by the two last preceding rules, the judge of the home court may, upon evidence of such summons having been posted to the high bailiff of the foreign court, direct notice, according to the form in the Appendix, to be given to such high bailiff that the said judge will on a day to be mentioned, unless such high bailiff shows cause to the contrary, make an order directing such high bailiff to pay to the plaintiff such sum as the judge may think reasonable, as compensation for any loss of time and expense which may have been caused to the plaintiff by such neglect.

Where  
return of  
service to  
home court  
is not  
made,  
foreign  
bailiff may  
be ordered  
to pay;  
costs.

Form 353.  
[Rule 26a  
Feb. 1892,  
revised.]

(2.) If on the day mentioned the judge makes any order for payment by such high bailiff, a memorandum of such order shall be made in the minute book, and the registrar of the home court shall transmit to the high bailiff of the foreign court a notice thereof according to the form in the Appendix.

Form 354.

(3.) If the high bailiff within the time limited by the order remits to the registrar of the home court the sum directed by the order to be paid, the registrar shall pay the same to the plaintiff.

(4.) If the high bailiff does not within the time limited by the order remit to the registrar of the home court the sum directed by the order to be paid, the registrar shall pay such sum to the plaintiff out of any money in his hands, and shall transmit to the treasurer of the foreign court a copy of the notice, certifying thereon the neglect of the high bailiff to pay the money as required, and the payment

ORDER II. thereof by the registrar of the home court : and the registrar shall be allowed by the treasurer of his court at his audit the amount so paid : and the treasurer of the foreign court shall deduct such sum from any payment he may thereafter make to the high bailiff.

High bailiff to deliver list of ordinary summonses served. 30. Seven clear days at least before the day of holding any court the high bailiff shall deliver to the registrar a list of all ordinary summonses on plaint before judgment issued to him and returnable at such court, and shall state therein the mode of service or the cause of non-service of each summons. [Rule 27.]

Notice of service or non-service of default summons. Form 35. 31. Within two days after the service of a default summons, the high bailiff of the court in the district of which it has been served shall send notice thereof to the plaintiff according to the form in the Appendix, and shall return the copy of the summons duly indorsed to the registrar of the court from which it issued ; and where any such summons cannot be served within one month from the date of issue, the high bailiff of the court in the district of which it is to be served shall send to the plaintiff a notice stating why it has not been served, and shall send a similar notice at the end of every one month during which it remains in force and unserved. [Rule 28.]

Order Book. 32. The high bailiff shall enter in the "Order Book" all judgments or orders for the payment of money or costs, or both, or other orders, which he has received, and the date on which he has posted or otherwise sent the same. [Rule 29, altered.]

Execution and entries of warrants and orders. 33. The high bailiff shall execute every warrant, order of commitment, or other order of the court delivered to him as soon as possible, and shall enter in the proper book every warrant and order which he has been required to execute, and shall state from time to time therein what he has done under each warrant or order, and if the same be not executed within one month from the day of delivery to him, why it has not been executed ; and he shall, at all reasonable times, give to a suitor or his solicitor all information which he may reasonably require as to the execution or non-execution of any warrant or order which has been issued at his instance. [Rule 30, altered.]

34. Every high bailiff levying or receiving any money by virtue of the process of any county court shall, except where he is by statute required to retain the same, within twenty-four hours from the receipt thereof pay over the same to the registrar of the court of which he is high bailiff, who shall indorse upon the warrant a memorandum of having received the same, and the high bailiff shall file such process and retain the same in his custody. [Rule 31.]

ORDER 11.  
Moneys to be paid in within 24 hours.

35. Where the high bailiff is required under the Bankruptcy Act, 1890, to hold the proceeds of sale under an execution, or the money paid to avoid a sale, for fourteen days, he shall within twenty-four hours after the sale of the goods or the receipt of the money send to the registrar of the court out of which the warrant of execution originally issued, and to the execution creditor, notice according to the form in the Appendix of the levy and of the amount realized thereunder. [Rule 32*a*, April, 1895.]

Notice where proceeds of execution are to be held for 14 days.  
53 & 54  
Vict. c. 71.  
s. 11. subs. 2.

Form 171.

36. Where the high bailiff withdraws from possession in consequence of having received notice that a receiving order in bankruptcy has been made, he shall within twenty-four hours after such withdrawal send to the execution creditor notice thereof according to the form in the Appendix. [Rule 33.]

Notice of withdrawal on notice of receiving order.

Form 172.

37. Whenever a warrant, order of commitment, or other order of the court required to be executed in a foreign district has not been executed within one month from the day of delivery, the high bailiff of the foreign court shall on the day after the termination of such month make a return to the registrar of the home court according to the form in the Appendix, and shall send a copy thereof to the execution creditor; and when any such warrant or order has not been executed during the time it is in force, such high bailiff shall return the same to the registrar of the home court within twenty-four hours from the expiration of such time, and shall indorse on such warrant or order the reason why the same could not be executed, and he shall sign such indorsement; but the high bailiff shall return such warrant or order, although unexecuted, to the home court at any time if he shall be directed so to do by the registrar of the home court, and he shall at all times give such information as such registrar may require respecting such warrant or order. [Rule 34.]

Non-execution of warrant in foreign district.

Form 174.

Return of warrant, if so directed.

ORDER II.

Duties of  
high bailiff  
as to sale  
of personal  
property.

51 & 52 Vict.  
c. 43. s. 146.

38. Where any personal property is directed to be sold by auction, detained, or preserved, the high bailiff shall, if the court so directs, superintend such sale, detention, or preservation ; and where the property is to be sold by private contract, he shall carry out the directions of the court in respect of such sale. This rule shall not apply to an execution issued under section one hundred and forty-six of the Act. [Rule 35.]

Taking  
possession  
of goods.

39. Where a warrant directs the high bailiff to detain and preserve any goods or chattels, he shall take and retain possession thereof until further order be made by the court thereon. [Rule 36.]

Where pos-  
session  
ordered  
to be  
taken until  
security  
given.

40. Where a warrant directs the high bailiff to take possession of any goods or chattels until security be given by some party for the safe keeping of the same, or for the payment of the value of the same in default of such safe keeping, but does not specify the amount of such security, the high bailiff shall make or cause to be made an inventory and appraisement of the goods or chattels which he may take into his possession ; and, upon receiving as a deposit the amount of such appraisement, or sufficient security, to be approved by the registrar, for the safe custody of such goods and chattels, and for the delivery up of possession thereof upon request, the high bailiff shall relinquish the possession thereof on condition that the same shall be re-delivered to him on request, or held to abide the order of the court. If the warrant specifies the amount of security, no less deposit or security shall be sufficient. [Rule 37.]

Notices  
where  
party  
acts by  
solicitor.

41. Where the plaintiff or execution creditor acts by a solicitor, the notices and copies referred to in Rules 5, 6, 24, 25, 26, 31, 35, 36, and 37 of this Order shall be sent to such solicitor. [Rule 38, altered,]

ORDER III.ORDER III.PARTIES.*Generally.*

Persons  
may be  
joined as  
plaintiffs

1. All persons may be joined as plaintiffs in one action in whom any right to any relief in respect of or arising out of the same transaction or series of transactions is alleged to exist, whether jointly,



severally, or in the alternative, where, if such persons brought separate actions, any common question of law or fact would arise : Provided that if upon the application of any defendant it appears that such joinder may embarrass or delay the trial, the judge may order separate trials, or make such other order as may be expedient. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to any extra costs occasioned by so joining any person who is not found entitled to relief, unless the court in disposing of the costs of the action otherwise directs. [Order III., Rule 1a, Dec. 1896.]

ORDER III.  
who claim relief jointly, severally, or in the alternative, in respect of the same transaction, when common question of law or fact arises.

2. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment. [Rule 2.]

Persons may be joined as defendants against whom relief claimed jointly, severally, or in the alternative.

3. It shall not be necessary that every defendant shall be interested as to all the relief prayed for, or as to every cause of action included in any proceeding against him ; but the court may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest. [Rule 3.]

All defendants joined need not be interested in all the relief prayed for.

4. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes. [Rule 4.]

All or any of the persons liable under any one contract may be joined.

5. Where the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants, to the intent that the question as to which, if any, of the defendants is liable, and to what extent, may be determined as between all parties. [Rule 5.]

Where plaintiff in doubt from whom he is entitled to redress.

6. Trustees, executors, and administrators may sue and be sued on behalf of or as representing the property or estate of which they

Trustees, executors, and others

**ORDER III.** are trustees or representatives, without joining any of the persons  
 may sue or be sued without joining parties beneficially interested. beneficially interested in the trust or estate, and shall be considered as representing such persons ; but the court may, at any stage of the proceedings, order any of such persons to be made parties to the action, either in addition to or in lieu of the previously existing parties thereto.

This rule shall apply to trustees, executors, and administrators sued in proceedings to enforce a security by foreclosure or otherwise.  
 [Rule 6.]

Where parties numerous, one or more may sue or be sued or defend for the benefit of all. 7. Where there are numerous persons having the same interest in one action or matter, one or more of such persons may sue or be sued, or may be authorised by the court, before or at the trial, to defend in such action or matter, on behalf or for the benefit of all parties so interested. [Rule 7.]

Where defendant desires to defend on behalf of others. 8. When a defendant desires to defend on behalf or for the benefit of others having the same interest, he shall within two clear days of the date of service of the summons on him give notice to the plaintiff of his intention to apply, upon a day and hour to be named in such notice, to the court for leave so to defend, and shall file an affidavit of the facts upon which he relies to obtain such leave, together with the names, addresses, and occupations of such persons ; and the court may thereupon make an order for the defendant so to defend, and the names of the persons as to whom such order is made shall be added to that of the defendant in the plaint and minute book ; and a copy of such order, with a copy of the summons and particulars in the action, and a notice according to the form in the Appendix, shall be personally served on each of such persons, and notice shall be sent to the plaintiff according to the form in the Appendix : Provided that the plaintiff or any of the persons whose names have been so added may at the trial object to the defendant defending on behalf of all or any of the persons as to whom such order has been made, and the judge may thereupon, if he thinks fit, strike the names of all or any of such persons out of the proceedings, and order the defendant to pay such costs as he may think fit. [Rule 8, altered.]

Form 96.  
 Form 98.  
 Form 97.

9. Where in proceedings concerning a trust a compromise is proposed, and some of the persons interested in the compromise are not parties to the proceedings, but there are other persons in the same interest before the court and assenting to the compromise, the judge, if satisfied that the compromise will be for the benefit of the absent persons, and that, to require service on such persons would cause unreasonable expense or delay, may approve the compromise and order that the same shall be binding on the absent persons, and they shall be bound accordingly, except where the order has been obtained by fraud or non-disclosure of material facts.

ORDER III.

Power to approve compromise in absence of some of the persons interested.

[New ; R.S.C. Order XVI., Rule 9A.]

*Persons under disability.*

10. Infants may sue as plaintiffs by their next friends, and may defend by their guardians appointed for that purpose ; but nothing herein contained shall affect the right of any infant to sue as if he were of full age in the cases enumerated in section ninety-six of the Act. [Rule 9.]

Infants.

51 & 52  
Vict. c 43.  
s. 96.

11. Married women may sue and be sued as provided by the Married Women's Property Act, 1882. [R.S.C. Order XVI., Rule 16, substituted for Order III., Rule 10.]

Married women.  
45 & 46  
Vict. c. 75.

12. In cases in which before the first day of November, 1875, lunatics or persons of unsound mind not so found by inquisition might respectively have sued as plaintiffs or would have been liable to be sued as defendants in any action, they may respectively sue as plaintiffs in any action by their committees or next friends according to the practice of the Chancery Division of the High Court, and may in like manner defend any action by their committees or guardians appointed for that purpose. [Rule 11.]

Lunatics and persons of unsound mind.

13. In any action or matter to which any infant or person of unsound mind, whether so found by inquisition or not, or person under any other disability, is a party, any consent as to the mode of taking evidence or as to any other procedure given by the next friend, guardian, committee, or other person acting on behalf of the person under disability shall, with the consent of the court, have the same

Persons under disability, how consents for can be given.

**ORDER III.** force and effect as if such party were under no disability and had given such consent. Provided that no such consent by any committee of a lunatic shall be valid as between him and the lunatic unless given with the sanction of the Lord Chancellor or Lords Justices sitting in Lunacy. [Rule 12.]

*Partners.*

**Co-partners may sue and be sued in the name of their firm.** 14. Any two or more persons claiming or being liable as co-partners, and carrying on business within England and Wales, may sue or be sued in the names of the respective firms, if any, of which such persons were co-partners at the time of the accruing of the cause of action ; and in any such case, on application by any party to the action, the court may order a statement of the names and places of residence of the persons who were at the time of the accruing of the cause of action co-partners in any such firm to be furnished in such manner, and verified on oath or otherwise, as the court may direct. [Rule 13a, Feb. 1892.]

**Application for names of firm in action by firm.** 15. Where an action is brought by partners in the name of their firm, the plaintiffs shall, on demand made in writing by or on behalf of any defendant, forthwith send by post to the defendant so applying and to the registrar the names and places of residence of all the persons constituting the firm on whose behalf the action is brought. And if the plaintiffs shall fail to comply with such demand, all proceedings in the action may, upon an application for that purpose, be stayed upon such terms as the judge may direct, or the judge at the trial may adjourn the hearing on such terms as he may think fit. And when the names of the partners are so declared, the action shall proceed in the same manner and the same consequences in all respects shall follow as if they had been named as the plaintiffs in the summons. But all the proceedings shall, nevertheless, continue in the name of the firm. [Rule 14a, Feb. 1892.]

**Application of rules to actions between firm and any of its members.** 16. The provisions of these rules as to actions by or against firms shall apply to actions between a firm and one or more of its members, and to actions between firms having one or more members in common, provided such firm or firms carry on business within England or Wales ; but no execution shall be issued in any such action without

leave of the judge, and on an application for leave to issue such execution all such accounts and inquiries may be directed to be taken and made, and directions given, as may be just.

ORDER III.  
[New ;  
R.S.C.  
Order  
XLVIII A,  
Rule 10.]

17. Any person carrying on business in a name or style other than his own name may be sued in such name or style as if it were a firm name ; and so far as the nature of the case will permit, all the provisions of these rules relating to proceedings against firms shall apply. [Rule 16a, Feb. 1892.]

Where one  
person  
carries on  
business in  
name other  
than his  
own.

### *Administration and Execution of Trusts.*

18. In any case in which the rights of an heir-at-law or customary heir or the next of kin or a class depend upon the construction which the judge may put upon an instrument, and it is not known or is difficult to ascertain who is or are such heir-at-law or customary heir or next of kin or class, and the judge considers that in order to save expense or for some other reason it will be convenient to have the questions of construction determined before such heir-at-law, customary heir, next of kin, or class have been ascertained by means of inquiry or otherwise, the judge may appoint some one or more proper person or persons appearing to him on such evidence as he thinks sufficient to have a presumptive or primâ facie claim to be regarded as heir-at-law, customary heir, or one of the next of kin or other class in question, to represent such heir-at-law, customary heir, next of kin, or class ; and the judgment or order of the judge in the presence of such person or persons shall be binding upon the heir-at-law, customary heir, next of kin, or class so represented. [Rule 17 ; customary heir new.]

Heir-at-law, next of kin, or a class, when unknown, how represented.

19. In any case in which an heir-at-law or customary heir or any next of kin or a class is or are interested in any proceedings, the judge may, if, having regard to the nature and extent of the interest of such persons or any of them, it appears expedient on account of the difficulty of ascertaining such persons, or in order to save expense, appoint one or more person or persons to represent such heir, or to represent all or any of such next of kin or class ; and the judgment or

Power to  
appoint  
person to  
represent  
absent  
parties.

**ORDER III.** order of the judge in the presence of the person or persons so appointed shall be binding upon the persons so represented.

[New ; R.S.C. Order XVI., Rule 32 (6).]

**When residuary legatees or next of kin need not be served.** 20. Any residuary legatee or next of kin entitled to a judgment or order for the administration of the personal estate of a deceased person, may have the same without serving the remaining residuary legatees or next of kin. [Order III., Rule 18.]

**Legatee entitled to judgment need not serve other legatees.** 21. Any legatee interested in a legacy charged upon real estate, and any person interested in the proceeds of real estate directed to be sold, who may be entitled to a judgment or order for the administration of the estate of a deceased person, may have the same without serving any other legatee or person interested in the proceeds of the estate. [Rule 19.]

**Co-residuary need not be served.** 22. Any residuary devisee or heir entitled to the like judgment or order may have the same without serving any co-residuary devisee or co-heir. [Rule 20.]

**Other cestuis que trust need not be served.** 23. Any one of several cestuis que trust under any deed or instrument entitled to a judgment or order for the execution of the trusts of the deed or instrument may have the same without serving any other cestui que trust. [Rule 21.]

**Waste or protection of property.** 24. In all cases of actions for the prevention of waste or otherwise for the protection of property, one person may sue on behalf of himself and all persons having the same interest. [New ; R.S.C., Ord. XVI., Rule 37.]

**Judgment for administration by executor against one legatee, &c.** 25. Any executor, administrator, or trustee entitled thereto may have a judgment or order against any one legatee, next of kin, or cestui que trust for the administration of the estate or the execution of the trusts. [Rule 22.]

**Judge may order parties to be added, and give directions as to conduct of action.** 26. The judge may require any person to be made a party to any action or matter, and may give the conduct of the action or matter to such person as he may think fit, and may make such order in any particular case as he may think just for placing the defendant on the record on the same footing in regard to costs

as other parties having a common interest with him in the matters **ORDER III.**  
in question. [Rule 23.]

27. Wherever in any action for the administration of the estate of a deceased person or the execution of the trusts of any deed or instrument, or for the partition or sale of any hereditaments, a judgment or an order has been pronounced or made, the judge may direct that any persons interested in the estate or under the trust or in the hereditaments shall be served with notice of the judgment or order; and after such notice such persons shall be bound by the proceedings in the same manner as if they had originally been made parties, and shall be at liberty to attend the proceedings under the judgment or order. Any person so served may at the next sitting of the court after such service, or by leave of the judge at any subsequent sitting, apply to the judge to discharge, vary, or add to the judgment or order.

Notice of judgment, when to be served. [Rule 24.]

28. Where the judge directs that any person shall be served with the notice mentioned in the last preceding rule, the notice shall be prepared by the registrar, who shall annex thereto a copy of the judgment or order, and issue the same to the bailiff for service, and shall also make and deliver to the bailiff a copy of the notice. [Substituted for Order III., Rule 25.]

Preparation of notice. Form 317.

29. Notice of a judgment or order under the two last preceding rules shall, whether the person to be served is or is not an infant or a person of unsound mind not so found by inquisition, be served in the same manner as a summons in an action is required to be served on such person; and the bailiff shall make an indorsement on the copy of the notice delivered to him, showing the fact, mode, and place of service, in the same manner as on the service of a summons in an action. [Substituted for Order III., Rule 26.]

Service of notice.

30. Where it appears to the judge that by reason of absence or for any other sufficient cause the service of the notice of the judgment or order mentioned in the last preceding rules upon any person cannot be made or ought to be dispensed with, the judge may, if he thinks fit, wholly dispense with such service, or may at his discretion order

Where service of notice of judgment or order may be dispensed with.

ORDER III. any substituted service or notice by advertisement or otherwise in lieu of such notice.

[New ; R.S.C. Order LV., Rule 35.]

Power to bind persons service on whom is dispensed with.

31. Where service of notice of a judgment or order for accounts and inquiries is dispensed with, the judge may, if he thinks fit, order that the persons as to whom service is dispensed with shall be bound as if served, and they shall be bound accordingly, except where the judgment or order has been obtained by fraud or non-disclosure of material facts.

[New ; R.S.C. Order LV., Rule 35A.]

When heir-at-law need not be a party.

32. In any action or matter to execute the trusts of a will it shall not be necessary to make the heir-at-law a party. [Order III., Rule 27.]

Where no legal representative.

33. If in any action or matter it appears to the judge that any deceased person who was interested in the matter in question has no legal personal representative, the judge may proceed in the absence of any person representing the estate of the deceased person, or may appoint some proper person to represent his estate for all the purposes of the action or matter, on such notice to such persons, if any, as the judge may think fit, either specially, or generally by public advertisement ; and the order so made, and any order consequent thereon, shall bind the estate of the deceased person in the same manner in every respect as if a duly constituted legal personal representative of the deceased had been a party to the action or matter. [Order III., Rule 28.]

Except by leave, only executor or administrator to appear on claim of person not a party.

34. In any action or matter for the administration of the estate of a deceased person, no party other than the executor or administrator shall, unless by leave of the court, be entitled to appear either in court or in chambers on the claim of any person not a party to the action or matter against the estate of the deceased person in respect of any debt or liability. The court may direct or give liberty to any other party to the action or matter to appear, either in addition to or in the place of the executor or administrator, upon such terms as to costs or otherwise as the court may think fit. [Order III., Rule 29.]



## ORDER IV.

ORDER IV.  

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## JOINDER OF CAUSES OF ACTION.

1. No cause of action shall, unless by leave of the court, be joined with an action of ejectment, except claims in respect of mesne profits or arrears of rent or double value in respect of the premises claimed or any part thereof, or damages for breach of any contract under which the same or any part thereof are held, or for any wrong or injury to the premises claimed.

What claims may be joined with action of ejectment.

Provided that nothing in this Order contained shall prevent any plaintiff in an action for foreclosure or redemption from asking for or obtaining an order against the defendant for delivery of the possession of the mortgaged property to the plaintiff on or after the order absolute for foreclosure or redemption, as the case may be, and such an action for foreclosure or redemption and for such delivery of possession shall not be deemed an action of ejectment within the meaning of these rules.

Joinder of claim for possession in action for foreclosure or redemption.

Provided also, that in case any mortgage security shall be foreclosed by reason of the default to redeem by any plaintiff in a redemption action, the defendant in whose favour such foreclosure has taken place may apply to the judge for an order for delivery to him of possession of the mortgaged property, and such order may be made thereupon as the justice of the case may require.

[Order IV., Rule 1 : Proviso new ; R.S.C. Order XVIII., Rule 1.]

2. Claims by a trustee in bankruptcy as such shall not, unless by leave of the court, be joined with any claim by him in any other capacity. [Rule 2.]

As to joinder of claims by trustee in bankruptcy.

3. Subject to the two preceding rules a plaintiff may unite in the same action several causes of action without leave of the court. [Rule 3.]

Joinder of causes of action generally.

4. Claims by or against husband and wife may be joined with claims by or against either of them separately. [Rule 4.]

Claims by or against husband and wife

**ORDER IV.**

Claims by  
or against  
executor  
or admini-  
strator.

5. Claims by or against an executor or administrator as such may be joined with claims by or against him personally, provided the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor or administrator. [Rule 5.]

Joint and  
separate  
claims by  
plaintiffs.

6. Claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant. [Rule 6.]

Separate  
trials may  
be ordered.

7. If at any time it appears or is made to appear to the judge that any causes of action united or claims joined in any action cannot be conveniently tried and disposed of together, he may order separate trials, or may exclude any such cause of action or claim, and may order the proceedings to be amended accordingly, and may make such order as to costs as may be just. [Rule 7.]

**ORDER V.****ORDER V.****COMMENCEMENT OF ACTION.**

Actions to  
be com-  
menced by  
plaint.

1. All proceedings authorised to be commenced in a county court by or under the Act shall, except when otherwise provided by the Act or these rules, be commenced by the entry of a plaint, and shall be called actions. [Order V., Rule 1a, July 1892.]

Trials by  
agreement  
under 51 &  
52 Vict.  
c. 43. s. 64.  
[Rule 2.]  
Form 13.

2. Where the parties, in pursuance of section sixty-four of the Act, agree to try any action in a county court, a plaint shall be entered and a summons shall be issued thereon as in other cases, and all the rules and practice of the court shall apply in such cases, so far as the same are applicable. The plaintiff on entering the plaint shall file with the registrar the memorandum of consent required by the Act.

Actions to  
recover  
possession  
of tene-  
ments,  
and actions  
of eject-  
ment.  
51 & 52  
Vict.  
c. 43. ss. 138,  
139, 59.

3. Actions brought to recover possession of tenements under the provisions of section one hundred and thirty-eight or section one hundred and thirty-nine of the Act shall be distinguished as actions for the recovery of possession, and actions brought under section fifty-nine of the Act shall be distinguished as actions of ejectment. Where an action of ejectment is brought in a case in which, in the opinion of the judge, an action should have been brought for the recovery of possession, the plaintiff shall not be

entitled to any further relief or to any further costs than he would have been entitled to in an action for the recovery of possession. [Substituted for Order V., Rule 3.] ORDER V.

4. No plaint shall be entered without the party desiring to enter the same filing at the office of the registrar a præcipe for that purpose. Præcipe on entry of plaint.

Forms 6, 7.

Such præcipe shall contain—

- (a) the Christian name and surname, description, and residence or place of business of the plaintiff, and, if the plaintiff is an infant required to sue by a next friend, the particulars required by Rule 16 of this Order ;
- (b) the surname, and, subject to the provisions of Rule 13 of this Order, the residence or place of business of the defendant, and (where known) his Christian name and description, the number of his house or place of business, and the name of the street in which it is situate ;
- (c) a statement whether the defendant is a male or a female, and, if known, whether of full age or not, and if a female, whether she is married, single, or a widow ;
- (d) a short statement of the cause of action, or remedy or relief sought, and the amount of the debt or damages claimed.

Where the intended plaintiff is illiterate and unable to furnish the required information in writing, the præcipe shall be filled up by the registrar's clerk.

If the plaint is entered by a solicitor, he shall state in the præcipe his name and place of business. [Rule 4a, Feb. 1892, altered.]

5. Where a company registered under the Companies Acts, 1862 to 1900, is a defendant, the præcipe shall give an address for service, described as "being the registered office of the company." [Rule 4b, May, 1899.] Præcipe where registered company is defendant. 25 & 26 Vict. c. 89. s. 62.

6. If the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, it shall be stated in the præcipe and particulars in what capacity the plaintiff sues or the defendant is sued. [Rule 5.] Capacity in which plaintiff sues or defendant is sued to be stated in præcipe.

**ORDER V.**

Particulars to be stated in præcipe, &c. where assignee sues.

Assignee not entitled to issue default summons. 51 & 52 Vict. c. 43. s. 86.

Default summons. Præcipe to state how service to be made.

Security for or undertaking as to costs, where plaintiff not resident in England or Wales.

Form 16.  
Form 17.

Security by person temporarily resident in England.

Entry of plaint by letter.

7. Where an assignee of a debt or other legal chose in action sues, the fact that he is such assignee, and the name, address, and description of the assignor, shall be stated in the præcipe and summons, and in the particulars (if any). [Rule 5a, June, 1896.]

8. An assignee of a debt or other legal chose in action shall not be entitled to issue a default summons under section eighty-six of the Act. \* [Rule 5b, June, 1896.]

9. Where the issue of a default summons is desired, and the plaintiff wishes the same to be served otherwise than by a bailiff, he shall so request in the præcipe required to be filed before the entry of the plaint. [Order V., Rule 6.]

10. Where it appears on an application for the entry of a plaint, that the plaintiff does not reside in England or Wales, the summons shall not be issued until security for costs, by deposit of money or otherwise, has been given to the satisfaction of the registrar : Provided that where the plaint is entered through a solicitor, an undertaking by him, according to the form in the Appendix, to be responsible for the costs shall be sufficient. If the plaintiff fails in or discontinues his action or proceeding, and does not pay the amount of costs ordered to be paid by him to the defendant, proceedings may be taken for the recovery of such amount from him, or from his solicitor if he has given the undertaking, as for the recovery of a judgment debt. [Order V., Rule 7.]

11. A person ordinarily resident out of England and Wales may be ordered to give such security or undertaking as in the preceding rule mentioned, though he may be temporarily resident in England or Wales.

[New ; R.S.C. Order LXV., Rule 6a.]

12. Where a person desires to enter a plaint in a court within the district of which he does not reside, he may, instead of attending at the court, transmit, free of cost, to the registrar—

(1.) A præcipe containing the information required to be given under Rule 4 of this Order, and where particulars are

required under Order VI., Rule 1, as many copies of the particulars of his demand or cause of action as there are defendants, and an additional copy to file : ORDER V.

- (2.) A post office order for the fees due upon the entry of the plaint, payable to the registrar at the post office of the town or place in which the court is held :
- (3.) An envelope addressed to himself, with a penny postage stamp thereon :

and upon the receipt of the above the registrar shall enter the plaint, and forward the plaint note to the plaintiff in the addressed envelope. For the purpose of this rule the several districts of the metropolitan courts shall be considered *inter se* as one district only. [Order V., Rule 8.]

13. (1.) Where leave to enter a plaint under section seventy-four of the Act is required, an application shall be made upon the affidavit of the proposed plaintiff, or of some person on his behalf who has knowledge of the facts, setting forth the facts on which the application is grounded, according to such one of the forms in the Appendix as shall be applicable to the case. How leave under 51 & 52 Vict. c. 43. s. 74. may be obtained. [Order V., Rule 9a (Feb. 1892). Rule 9b (April, 1895). Rule 9b (1) June, 1896.] Form 8.
- (2.) The affidavit on an application for leave to enter a plaint and issue an ordinary summons shall be according to the form 8 (1) in the Appendix. Forms 8(1), 8(2).
- (3.) The affidavit on an application on behalf of an assignee of a debt for leave to enter a plaint and issue an ordinary summons shall be according to the form 8 (1) in the Appendix, with the addition of a paragraph according to the form 8 (2) in the Appendix, stating the name, address, and description of the person with whom the debt was originally contracted, and that such debt has been absolutely assigned to the proposed plaintiff, and that express notice in writing of such assignment has been given to the debtor. Forms 9, 10.
- (4.) The affidavit on an application for leave to enter a plaint and issue a default summons under section eighty-six of the Act shall, where the amount claimed exceeds five pounds, be according to the form 9 in the Appendix, and shall,

## ORDER V.

where such amount does not exceed five pounds, be according to the form 10 in the Appendix.

- (5.) The affidavit shall be lodged with the registrar, together with a copy of the same for each defendant.
- (6.) The judge or registrar shall duly consider the facts disclosed by the affidavit, and shall exercise his discretion in each case as to the grant or refusal of leave in accordance with the circumstances.
- (7.) Where the proposed plaintiff is the assignee of a debt, the judge or registrar shall in particular consider whether the proposed place of trial will be less convenient to the defendant than the place at which he might have been sued if the debt had not been assigned, and if he shall be of opinion that it will, he shall refuse leave.
- (8.) Every order granting leave under this rule shall be signed by the judge or registrar in his own handwriting at the foot of the affidavit.
- (9.) Subject to the provisions of this rule, leave may be granted, and the summons may be issued, although the plaintiff cannot give the present place of residence or of business of the defendant; but in that case the defendant shall be served personally, wherever in England or Wales he may be met with. Service of an ordinary summons in such case may, if so requested in the præcipe, be effected by any person by whom a default summons may be served under Order VII., Rule 33, and where service is to be effected in accordance with paragraph (c) of that rule item 14 in the scale of costs may be entered on the summons. Where service is effected otherwise than by a bailiff, an affidavit of service according to the form in the Appendix must be lodged with the registrar seven clear days before the return day.

Form 37.

Affidavit  
under  
51 & 52 Vict.  
c. 43, s. 86.  
Default  
summons  
in district.  
Forms 11,  
12.

14. The affidavit to be filed for the issue of a default summons under section eighty-six of the Act for service in the district shall, where the amount claimed exceeds five pounds, be according to the form 11 in the Appendix, and shall where such amount does not exceed five pounds, be according to the form 12 in the Appendix. [Rule 9c, April, 1895.]

15. Where pursuant to the proviso in section eighty-six of the Act, the leave of the judge or registrar is required for the issue of a default summons, no such leave shall be given unless the occupation and description of the defendant is fully set out in the affidavit filed for the issue of such summons; and no such leave shall be given in cases where in the affidavit it appears that the defendant is a domestic or menial servant, a labourer, a servant in husbandry, a journeyman, an artificer, a handicraftsman, a miner, or any person engaged in manual labour. [Rule 10.]

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Summons under 51 & 52 Vict. c. 43. s. 86 not to issue in certain cases. Form 12.

16. Where an infant desires to commence an action (other than for wages or piece-work, or for work as a servant), or is a claimant in an interpleader proceeding, he shall sue by a next friend, and the Christian name and surname, description, and residence or place of business of the next friend shall be stated in the præcipe; and such next friend shall, at the time of entering the plaint or delivering the particulars of the goods and chattels alleged to be the property of the infant, either attend at the office of the registrar and give an undertaking, according to the form in the Appendix, to be responsible for costs, or transmit such an undertaking to the registrar: and if such undertaking is not given at the office of the registrar, it shall be attested by a solicitor, or by a clerk to a registrar nominated to take affidavits. The plaint shall not be entered or the particulars received until such undertaking has been given, and on entering into such undertaking the next friend shall be liable in the same manner and to the same extent as if he were himself the plaintiff; and the action or interpleader proceeding shall proceed in the name of the infant by such next friend, and the undertaking shall be filed by the registrar; but no order of the court shall be necessary for the appointment of such next friend. If the infant fails in or discontinues his action or proceeding, and does not pay the amount of costs ordered to be paid by him to the defendant, proceedings may be taken for the recovery of such amount from the next friend as for the recovery of a judgment debt. [Rule 11a, May, 1899.]

Infant suing.  
Form 15.

17. Where a plaint is entered by a married woman in which her husband is not joined, she shall state the name, and, so far as she can, the address and description of her husband. [Rule 12a, May, 1899, altered.]

Married women suing. 45 & 46 Vict. c. 75.

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Person of  
unsound  
mind  
suing.

18. Where a plaint is entered or a claim in an interpleader proceeding is made by or on behalf of a person of unsound mind not so found by inquisition, he shall sue by a next friend ; and the provisions of Rule 16 as to an infant suing by a next friend shall apply to a person of unsound mind so suing. [Rule 12*b*, May, 1899.]

Practice  
where  
plaintiff  
by default  
summons  
does not  
require  
payment  
forthwith.  
Form 24.

19. Where a plaintiff requiring a default summons does not desire the order upon the judgment to be for payment forthwith, he may at the time of the entry of the plaint file a notice of the time or times, and of the instalments, if any, at or by which he consents to accept payment, together with as many copies of such notice as there are defendants ; and a copy of such notice shall be annexed to the summons and served therewith ; and if he neglects to file such notice he may nevertheless give notice to the registrar to the like effect at the time of entering up judgment. [Rule 13.]

**ORDER VI.****ORDER VI.****PARTICULARS AND STATEMENT OF CLAIM.**

Particu-  
lars, when  
to be filed.  
[Order VI.,  
Rule 1*a*,  
Feb. 1892.]

1. Subject to the provisions of these rules, the plaintiff shall at the time of the entry of the plaint in every action file particulars of his claim or demand, in which he shall specify the cause of action in respect of which the action is brought, as well as the pecuniary or other claim which he seeks to establish ; but this rule shall not apply where the action is brought by ordinary summons for debt or damages only, and the amount claimed does not exceed forty shillings. Where the claim or demand exceeds fifty pounds, and the plaintiff desires to abandon the excess, the abandonment of the excess shall be entered at the end of the particulars.

Abandon-  
ment of  
excess of  
claim over  
£50.

Particulars  
in cases of  
account.

2. In cases in which the plaintiff in the first instance desires to have an account taken, the particulars shall contain a claim that such account be taken. [Rule 2.]

Particulars  
in actions  
of eject-  
ment.

3. In actions of ejectment, the particulars shall contain a full description of the property sought to be recovered and of the annual value thereof, and of the rent, if there be any, fixed or paid in respect thereof. [Rule 4.]



4. Where an action is brought under section sixty of the Act, ORDER VI. Particulars in actions under 51 & 52 Vict. c. 43. s. 60. Form 279. whatever the amount of damages claimed may be, the plaintiff shall, at the time of the entry of the plaint, file a concise statement in writing of his cause of action, and of the particulars thereof. [Rule 5.]

5. Where any person entitled to bring or maintain an action for the administration of the estate of any deceased person or the execution of any trust desires to submit for the determination of the court any of the following questions or matters :—

- (a.) any question affecting the rights or interests of any person claiming to be creditor, devisee, legatee, next of kin, or heir-at-law, or cestui que trust :
- (b.) the ascertainment of any class of creditors, legatees, devisees, next of kin, or others :
- (c.) the furnishing of any particular accounts by the executors or administrators or trustees, and the vouching (when necessary) of such accounts :
- (d.) the payment into court of any money in the hands of the executors or administrators or trustees :
- (e.) directing the executors or administrators or trustees to do or abstain from doing any particular act in their character as such executors or administrators or trustees :
- (f.) the approval of any sale, purchase, compromise, or other transaction :
- (g.) the determination of any question arising in the administration of the estate or trust :

he shall in his particulars specify concisely the question or matter upon which the decision of the court is required ; and that he is willing to renounce his right to an order for a general administration of the estate or trust.

6. Where the plaintiff seeks to obtain payment or satisfaction, or relief, redress, or remedy upon more than one cause of action or claim, he shall in his particulars state the grounds of each claim separately, and shall also state separately the payment or satisfaction, relief, redress, or remedy he claims in respect of each. [Rule 7.] Particulars where more than one cause of action.

**ORDER VI.** 7. In any action the defendant may, at any time not later than five clear days before the return day, give notice to the plaintiff that he requires further particulars, and the plaintiff shall, within two clear days of the service of such notice, file full particulars of his claim, and of the relief or remedy to which he claims to be entitled, and shall within the same time deliver to the defendant a copy thereof. If the plaintiff fails to comply with such notice, or complies therewith insufficiently, the court, before or at the trial, if satisfied that the defendant is thereby prejudiced in his defence, may order the plaintiff to file and deliver full particulars, and may adjourn the action, and stay all proceedings therein until such order has been complied with, and may make such order as to costs as the court may think fit.

**Fraction of a penny.** 8. Where the amount claimed in any case includes a fraction of a penny, such fraction shall not be entered in the books of the court, and judgment shall not be given for any fraction of a penny. [Rule 9.]

**Signature to particulars by solicitor or authorised clerk.** 9. Where a plaintiff sues by solicitor, the particulars must be signed by the solicitor in his own name or that of his firm, and he shall state thereon his place of business and where he will accept service of proceedings in the action or matter on behalf of the plaintiff, otherwise the costs of entering the plaint by solicitor shall not be allowed. Provided that the clerk of a solicitor, if duly authorised, may sign the particulars on behalf of and in the name of his master.

If in the opinion of the court the particulars are insufficient, the costs of entering the plaint by solicitor shall not be allowed unless the court otherwise orders. [Order VI., Rule 10a, Feb. 1892. Last paragraph new.]

**ORDER VII.**

**ORDER VII.**

**PLAINT NOTE AND SUMMONS. SERVICE. GUARDIANS AD LITEM.**

*Plaint Note.*

**Plaintnote.** 1. At the time of entering a plaint the registrar shall give to the plaintiff a note under the seal of the court, according to the form in the Appendix. In the event of such note being lost or destroyed,

Forms 18,  
19, 20, 21.

a duplicate thereof may be given from time to time, upon proof by affidavit or otherwise, to the satisfaction of the registrar, that the person applying is the plaintiff, or his agent authorised in that behalf, and that the plaintiff is entitled to the money (if any) paid into court to his credit. [Order VII., Rule 1.]

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### *Summons on Plaint.*

2. A summons to appear to a plaint shall be according to one or other of the forms in the Appendix, and shall be dated of the day on which the plaint was entered, and the date thereof shall be the commencement of the action. [Rule 2.]

Form and  
date of  
summons.  
Forms 22,  
23, 25.

3. Where leave is granted under the provisions of section seventy-four of the Act to issue either an ordinary or a default summons for service out of the district, the copy affidavit mentioned in Order V., Rule 13, with a copy thereon of the order granting leave, shall be annexed to the summons and served therewith. [Rule 3a, Feb. 1892.]

Where  
issued by  
leave.  
51&52Vict.  
c. 43. s. 74.

4. In all cases the particulars where required to be filed shall be annexed to the summons before service, and shall be deemed to be part thereof. [Rule 4.]

Particulars  
to be  
deemed  
part of  
summons.

### *Ordinary Summons and Service.*

5. An ordinary summons may be made returnable either at the court for which plaints are then being entered, or at the request of the plaintiff at any subsequent court. [Rule 5.]

Ordinary  
summons  
when  
returnable

6. (1.) Subject to the provisions of this rule, where an ordinary summons has not been served, successive summonses may be issued without entering a new plaint.

Successive  
sum-  
monses.

(2.) A successive summons shall not be issued in any case in which the non-service has been caused by the fact of the plaintiff having

ORDER  
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mis-stated the name of the defendant or having given a wrong or insufficient address, or of the defendant having, before the entry of the plaint, removed from the address given on the entry thereof, unless the plaintiff satisfies the court that the mis-statement or wrong or insufficient address was made or given in good faith, and without any want of reasonable care on his part, or that he could not by the exercise of reasonable care have discovered the fact of such removal before the entry of the plaint.

(3.) If the bailiff ascertains in sufficient time before the return day, and before notice of non-service has been sent, that the defendant has removed from the address given on the summons to some other address within the district of the court, it shall be his duty to effect service in accordance with Order II., Rule 22.

(4.) Successive summonses shall bear the same date and number as the summons first issued, which date and number shall be written in red ink in the plaint book, and such summonses shall be a continuance of the first summons.

(5.) No successive summons shall be issued on a plaint after three months from the date of entry. [Rule 6, revised.]

Successive  
summons  
where  
defendant  
removes  
from dis-  
trict after  
entry of  
plaint.

7. Where an ordinary summons, whether issued for service in or out of the district, has not been served by reason of the defendant having after the entry of the plaint removed out of the district in which such summons was required to be served, a successive summons may be issued under the last preceding rule for service on such defendant in any other district to which he has removed. [Rule 6a, June, 1896.]

Delivery  
and service  
of sum-  
mons in  
action of  
ejectment.  
51 & 52 Vict.  
c. 43. s. 59.

8. The summons in an action of ejectment brought under section fifty-nine of the Act shall, in order to insure its service, be delivered to the bailiff forty clear days at least before the return day, and shall be served thirty-five clear days at least before the return day thereof. [Rule 7.]

9. An ordinary summons to appear to a plaintiff (except in an action of ejectment) shall, in order to insure its service, be delivered to the bailiff, where it is to be served in the home district fifteen clear days at least, and where it is to be served in a foreign district eighteen clear days at least before the return day, and shall, in either case, be served ten clear days at least before the return day thereof: Provided that a summons may be issued and served at any time before the return day, on production by the plaintiff to the registrar of an affidavit showing that the defendant is about to remove out of the district of the court, or out of the district of the court in the district of which he resides; and the service of such summons may be deemed good service, if at the hearing the judge is satisfied, on the evidence on oath before him, that such party was about to remove out of the district of such court; but in every such case, whether such proof be given or not, the judge may, in his discretion, and on such terms as he may think fit, adjourn the hearing. [Rule 8; amended May, 1899.]

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When ordinary summons is to be delivered for service.  
Time of service.

10. (1.) Subject to the provisions of this and the following rules, service of an ordinary summons shall be effected by delivering the same to the defendant personally, or to some person apparently not less than sixteen years old at the house or place of dwelling or place of business of the defendant.

Mode of service of an ordinary summons.

Form 29.

(2.) Provided that service may be effected—

(a) in the cases mentioned in Rules 12 to 16 and 18 to 27 (both inclusive) of this Order, in the manner prescribed by those rules; or

(b) under an order for substituted service as prescribed by Rule 40 of this Order.

(3.) For the purposes of this rule a place of business shall not be deemed to be the place of business of the defendant unless he is the master or one of the masters thereof. [Rule 9a, Feb 1892.]

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Where  
summons  
left at resi-  
dence or  
place of  
business of  
defendant,  
and he  
does not  
appear.

11. Where by the indorsement on the copy of an ordinary summons it appears that service was effected by delivering the summons to some person apparently not less than sixteen years old at the house or place of dwelling or place of business of the defendant, and the defendant does not appear on the return day, the action shall not proceed if the court is satisfied, on the evidence before it, that the service of such summons did not come to the knowledge of the defendant before the return day.

In such case the court may either order the action to be struck out, or order a successive summons to issue, as to it may seem just ; or, if the court is in doubt whether the service of the summons has come to the knowledge of the defendant before the return day, it may order the action to be struck out, or order a successive summons to issue, or may adjourn the action to a future day for further evidence ; and may in that case direct notice of such adjournment, with a copy of the summons and particulars, to be served on the defendant : and such notice and copy may be served by the high bailiff by post in accordance with the provisions of Order LIV., Rule 2.

Form 93A.

[Rule 9c, Feb. 1892, altered.]

Service on  
solicitor.

12. Where a solicitor represents to the bailiff that he is authorised to accept service on behalf of a defendant, it shall be sufficient service to deliver the summons to such solicitor, provided that such solicitor shall, at the time of such delivery, indorse upon the copy of the summons retained by the bailiff a memorandum that he accepts service thereof on behalf of such defendant. [Rule 9c, Feb. 1892.]

Service on  
infant.

13. Where an infant is a defendant, service on his father or guardian, or (if none) on the person with whom the infant resides or under whose care he is, shall, unless the court otherwise orders, be deemed good service on the infant. Provided that the court may order that service made or to be made on the infant shall be deemed good service. [Rule 10 : Proviso new : see R.S.C., Order IX., Rule 4.]

Service on  
lunatic or  
person of  
unsound  
mind.

14. Where a lunatic or a person of unsound mind not so found by inquisition is a defendant, service on the committee (if any) of the lunatic, or (if none) on the person with whom the person of unsound mind resides or under whose care he is, shall, unless the court

otherwise orders, be deemed good service on such defendant.  
[Rule 11.]

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15. Where persons are sued as partners in the name of their firm, the summons shall be served either upon any one or more of the partners, or at the principal place of the partnership business in England or Wales upon any person having or appearing to have at the time of service the control or management of the business there, and, subject to these rules, such service shall be deemed good service on the firm so sued: Provided that in the case of a co-partnership which has been dissolved to the knowledge of the plaintiff before the commencement of the action, the summons shall be served upon every person sought to be made liable.

Service on  
partners.  
[Rule 12a,  
Feb. 1892.]

16. Where one person carrying on business in a name or style other than his own name is sued in such name or style as if it were a firm name, the summons may be served at the principal place of business of such person in England or Wales upon any person having or appearing to have at the time of service the control or management of the business there; and such service, if sufficient in other respects, shall be deemed good service on the person so sued. [Rule 13a, Feb. 1892.]

Service  
where per-  
son carries  
on business  
in name  
other than  
his own.

17. Where husband and wife are both defendants they shall both be served, unless the court otherwise orders. [Rule 14.]

Where hus-  
band and  
wife are  
defendants.

18. Where a defendant is living or serving on board of any ship or vessel, it shall be sufficient service to deliver the summons to the person on board who is, at the time of such service, apparently in charge of such ship or vessel. [Rule 15.]

Service  
where de-  
fendant on  
board ship.

19. Where a defendant is residing or quartered in any barracks, and serving His Majesty as a soldier or marine, it shall be sufficient service to deliver the summons at the barracks to the adjutant of the corps, or to any officer or sergeant of the company or troop to which such soldier or marine belongs. [Rule 16.]

Service on  
soldier  
or marine.

20. Where a defendant is a prisoner in a gaol, it shall be sufficient service to deliver the summons at the gaol to the governor or any person appearing to be the head officer in charge thereof. [Rule 17.]

Service on  
prisoner.

ORDER  
VII.Service on  
miner.

21. Where a defendant is working in any mine or other works underground, it shall be sufficient service to deliver the summons at the mine or works, to the engine-man, banks-man, or other person apparently in charge of the mine or works. [Rule 18.]

Service  
where de-  
fendant  
employed  
in public  
asylum or  
prison.

22. Where a defendant is employed and dwells in any lunatic or other public asylum, or in any common gaol or house of correction, it shall be sufficient service to deliver the summons to the gate-keeper or lodge-keeper of the asylum, gaol, or house of correction. [Rule 19.]

Where  
defendant  
keeps his  
house  
closed.

23. Where a defendant keeps his house or place of dwelling or place of business closed, so as to prevent a bailiff from serving a summons, it shall be sufficient service to affix such summons on the door of such house or place of dwelling or place of business. [Rule 20.]

Service in  
case of  
vacant pos-  
session.

24. Service of the summons in an action of ejectment, or for the recovery of possession of a tenement, may, in case of vacant possession, if it cannot otherwise be effected, be made by posting a copy of the summons upon the door of the dwelling-house or other conspicuous part of the property. [Rule 21.]

Service  
where  
violence  
threatened.

25. Where a bailiff is prevented by the violence or threats of the defendant, or of any other person in concert with him, from personally serving the summons, it shall be sufficient service to leave such summons as near to the defendant as practicable. [Rule 22.]

Service of  
summons  
on cor-  
poration,  
hundred,  
&c.

26. (1.) In the absence of any statutory provision regulating the service of process, service on a corporation aggregate may be made on the mayor or other head officer, or on the town clerk, clerk, treasurer, or secretary of such corporation; and when by any statute provision is made for service of any summons, petition, or other process upon any corporation, or upon any hundred, or the inhabitants of any place, or any society or fellowship, or any body or number of persons, whether corporate or unincorporate, a summons may be served in the manner so provided. [Rule 23.]



(2.) The statutory provisions with respect to service contained in—

ORDER  
VII,

(a) the Companies Clauses Consolidation Act, 1845 :

Statutory  
provisions as  
to service on  
companies.

(b) the Lands Clauses Consolidation Act, 1845 :

8 & 9 Vict.  
c. 16. s. 135.

(c) the Railways Clauses Consolidation Act, 1845 : and

8 & 9 Vict.  
c. 18. s. 134.  
8 & 9 Vict.  
c. 20. s. 138.  
25 & 26 Vict.  
c. 89. ss. 62, 63.

(d) the Companies Acts, 1862 to 1900,

[Rule 23a,  
May, 1899.]

are set forth in Part III of the Appendix.

Appendix,  
Part III.

27. Service of a summons on a railway company may be effected by delivering the summons to a secretary, station master, or clerk of the company, at any station or office of the company within the district of the court in which the summons is to be served. [Rule 24.]

Service on  
railway  
company.

28. Where a summons has been served in one of the modes herein-before mentioned, but it appears that it has come to the knowledge of the defendant less than ten clear days before the return day, the action may, at the discretion of the court, proceed or be adjourned, whether the defendant appears or not on such return day. [Rule 26.]

Where  
summons  
has come to  
knowledge  
of defen-  
dant less  
than ten  
days before  
return day.

29. Where a summons is issued under section eighty-four of the Act, it shall be served by a bailiff of the court within the district of which the defendant dwells or carries on business, unless the court otherwise specially orders : Provided that this rule shall not interfere with the general power now vested in the bailiff of the court from which a summons issues to serve the same within five hundred yards of the boundary of the district of such court. [Rule 27.]

Where  
summons  
issues  
under 51 &  
52 Vict. c.  
43. s. 84.

### *Default Summons and Service.*

30. A default summons shall be personally served within a period of twelve months from its date ; but if any defendant named in any such summons has not been served therewith, the plaintiff may, before the expiration of twelve months, apply to the registrar, and if the registrar is satisfied that reasonable efforts have been made to

Service of  
default  
summons.

ORDER  
VII.  
—

serve such defendant, or that there is some other good reason why service has been delayed, he may issue a successive summons for a further period of twelve months, and so from time to time during the currency of the successive summons ; and such successive summonses shall be a continuance of the action on and from the day on which the plaint was entered. [Rule 29.]

Service on  
a firm.

31. Where a default summons is issued against partners in the name of the firm, it shall be deemed to be sufficiently served on the firm if served personally on any one of the partners. [Rule 29a.]

Service on  
corporation,  
&c.

32. Where a default summons is issued against a corporation, or against any other defendant or body of defendants mentioned in Rule 26 of this Order, it shall be deemed to be sufficiently served on such corporation or other defendant or body of defendants if served in accordance with the said rule. [Rule 29b, April, 1895.]

Default  
summons  
may be  
served in  
any dis-  
trict.  
By whom  
service  
may be  
effected.

33. A default summons may be served in any district in which the defendant may be met with by—

(a.) a bailiff of a court ;

or, when so requested on the entry of the plaint under Order V., Rule 9,—

(b.) by the plaintiff, or some clerk or servant in his permanent and exclusive employ ; or

(c.) by the plaintiff's solicitor, or a solicitor acting as agent for such solicitor, or some person in the employ of either of them.

Provided that, if in any case in which no request has been made on the entry of the plaint under Order V., Rule 9, any difficulty is experienced by the bailiff in effecting service, the summons may by leave of the registrar be served by the plaintiff or some clerk or servant in his permanent and exclusive employ, or by the plaintiff's solicitor or the agent of such solicitor as aforesaid, or some person in the employ of either of them. [Rule 30.]

Where ser-  
vice made  
otherwise  
than by  
bailiff.

34. Where a default summons has been served otherwise than by a bailiff, a copy of such summons, with the date and place of service indorsed thereon, shall within three clear days next thereafter, or such

further time as may be allowed by the registrar of the court issuing such summons, be delivered or transmitted to such registrar by the plaintiff. The plaintiff shall also (unless the defendant gives notice of defence or admission of the debt), after the expiration of the time limited for giving notice of defence, but before or at the time of entering up judgment, deliver or transmit to such registrar an affidavit of the service of such summons, according to the form in the Appendix, or the order giving liberty to proceed as if personal service had been effected, as the case may be. [Rule 31, July, 1892.]

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VII.  
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Form 37.

Form 46.

35. Where a default summons has not been returned to the registrar within twelve months from the date of its issue it shall be struck out of the plaint book, unless the time for its service has been extended. [Rule 32.]

When default summons to be struck out.

36. Where after service of a default summons has been effected on any defendant no notice of intention to defend has been given by him, or leave to defend has not been obtained, and two months have expired from the date of service, judgment shall not be entered against such defendant. [Rule 33a, Feb. 1892.]

Limitation of time for signing judgment on default summons.

37. Where a default summons has been served in due time to prevent the operation of a statute of limitations, and either party dies after the service and after the lapse of the period within which it is provided by the statute that an action may be brought, proceedings may be taken by or against the surviving party, or by or against the personal representative of the deceased party, within one year from the day of service of the summons. [Rule 34.]

Where either party dies after service of summons to save statute.

38. A default summons may, at the request of the plaintiff, be exchanged without fee for an ordinary summons, upon the default summons being filed in court within twelve months of its issue. [Rule 35.]

Exchange of default for ordinary summons.

### *Substituted Service.*

39. The provisions of section eighty-six of the Act, as to where personal service can not be effected, shall apply to the failure of service of a summons issued under the Summary Procedure on Bills of Exchange Act, 1855. [Rule 36.]

Order for liberty to proceed in actions under 18 & 19 Vict. c. 67; 51 & 52 Vict. c. 43. s. 86. Form 46.

ORDER  
VII.

Substituted service, and notice in lieu of service.

[Forms 43, 44, 45.]

40. Where by reason of the absence of any party, or from any other sufficient cause, the service of any summons (other than a default or judgment summons, or a summons under the Summary Procedure on Bills of Exchange Act. 1855), petition, notice, proceeding, or document cannot be made, the court may, upon an affidavit showing grounds, make such order for substituted or other service, or for the substitution for service of notice by advertisement or otherwise, as may be just. [Order LI., Rule 6.]

*Service out of England and Wales.*

[Conf. R.S.C. Order XI.].

Service out of England and Wales, when allowed.

[Rules 41 to 46, new. Substituted for Order LI., Rule 23.]

41. Service out of England and Wales of a summons or notice of a summons may be allowed by the court whenever—

- (a) the whole subject-matter of the action is land situate within the district of the court (with or without rent or profits) ; or
- (b) any act, deed, will, contract, obligation, or liability affecting land or hereditaments situate within the district of the court is sought to be construed, rectified, set aside, or enforced in the action ; or
- (c) any relief is sought against any person residing or carrying on business within the district of the court, or sued in the court pursuant to leave granted under section seventy-four of the Act ; or
- (d) the action is for the administration of the personal estate of any deceased person who had his last place of abode within the district of the court, or for the execution (as to property situate within the district) of the trusts of any written instrument of which the person to be served is a trustee, which ought to be executed according to the law of England ; or
- (e) the action is founded on any breach or alleged breach within the district of the court of any contract wherever made which, according to the terms thereof, ought to be performed within England or Wales, unless the

defendant is domiciled or ordinarily resident in Scotland or Ireland ; or

ORDER  
VII.

(f) any injunction is sought as to anything done or to be done in the district of the court, or any nuisance in such district is sought to be prevented or removed, whether damages are or are not also sought in respect thereof ; or

(g) any person out of England and Wales is a necessary or proper party to any action properly brought in the court against some other person duly served in England or Wales.

42. Where leave is asked from the court to serve a summons under the last preceding rule in Scotland or in Ireland, if it appears to the court that there may be a concurrent remedy in Scotland or Ireland (as the case may be), the court shall have regard to the comparative cost and convenience of proceeding in the district of the court or in the place of residence of the defendant or person sought to be served, and particularly to the powers and jurisdiction, under the statutes establishing or regulating them, of the Sheriff's Courts or Small Debts Courts in Scotland, and of the Civil Bill Courts in Ireland, respectively. How discretion to be exercised.

43. In Probate actions service of a summons or notice of a summons out of England and Wales may be allowed by leave of the court. Probate actions.

44. Every application for leave to serve a summons or notice of a summons on a defendant out of England and Wales shall be supported by affidavit or other evidence stating that in the belief of the deponent the plaintiff has a good cause of action, and showing in what place or country such defendant is or may probably be found, and whether such defendant is a British subject or not, and the grounds upon which the application is made ; and no such leave shall be granted unless it is made sufficiently to appear to the court that the case is a proper one for service out of England and Wales under these rules. Application to be supported by evidence.

ORDER  
VII.  
—  
Order to  
fix time for  
appear-  
ance.  
Form 47.

45. Any order giving leave to effect such service or give such notice shall fix a day on which the action will be proceeded with, and on which the defendant is to appear, such day to be so fixed as to allow sufficient time after service for the defendant to appear, regard being had to the place or country where or within which the summons is to be served or the notice given.

Notice  
where  
summons  
to be  
served.  
Form 48.

46. When the summons itself is to be served on the defendant, a notice according to the form in the Appendix shall be annexed to the summons and served therewith, and the summons and notice shall be served in the manner in which default summonses are required to be served.

Notice in  
lieu of  
summons.  
Form 49.

47. When the defendant is neither a British subject nor in British dominions, notice of the summons according to the form in the Appendix, and not the summons itself, shall be served on him ; and such notice shall be served in the manner in which default summonses are required to be served.

Proof of  
service.

48. Where leave is given under these rules to serve a summons or notice of a summons on a defendant out of England and Wales, and such defendant does not appear on the day fixed for proceeding with the action, the plaintiff shall before proceeding file an affidavit of service of the summons or notice, as the case may be.] [R.S.C., Order XIII., Rule 2.

Applica-  
tion to set  
aside  
service.

49. A defendant served with a summons or notice of a summons under this Order may apply, on notice, to the judge to set aside the service of such summons or notice upon him, or to discharge the order authorising such service.

[R.S.C. Order XII., Rule 30.]

*Appointment of Guardians ad Litem to Infants or Persons of  
Unsound Mind.*

Appoint-  
ment of  
guardian

50. Where it appears on the face of the proceedings that any defendant to an action or matter is an infant or a person of unsound

mind not so found by inquisition, the following provisions shall apply :—

ORDER  
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*ad litem* to defendant appearing on face of proceedings to be an infant or a person of unsound mind.

Forms 50,  
51.

Form 52.

Form 53.

Forms 54,  
55.

- (1.) At any time after the service of the summons, and not less than six clear days before the return day, a guardian *ad litem* to such infant or person of unsound mind may be appointed by the registrar, on application made to him on behalf of such infant or person of unsound mind, on affidavit according to the form in the Appendix, accompanied by a written consent of the proposed guardian to act as such guardian.
- (2.) Where such appointment is made, the registrar shall forthwith send notice by post of such appointment to the plaintiff, according to the form in the Appendix.
- (3.) Where no application for the appointment of a guardian *ad litem* is made on behalf of the infant or person of unsound mind within the time herein-before limited, the registrar shall on the sixth day before the return day send notice by post to the plaintiff that no such application has been made, according to the form in the Appendix.
- (4.) The plaintiff shall thereupon, before proceeding further with the action or matter against such infant or person of unsound mind, apply to the judge for an order that some proper person be assigned guardian *ad litem* of such defendant, by whom he may appear and defend, and, if necessary, for a postponement of the trial.
- (5.) Such application shall be made on affidavit according to the form in the Appendix ; and notice of such application, together with a copy of such affidavit, shall three clear days at least before the day in such notice named for hearing the application be served upon or left at the dwelling-house of the person with whom or under whose care such defendant was at the time of service of the summons, and shall also (in the case of such defendant being an infant not residing with or under the care of his father or guardian) be served upon or left at the dwelling-house of the father or guardian (if any) of such infant : Provided that the registrar may, on the application of the plaintiff, dispense with such last-mentioned service.

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VII.  
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Form 56.

- (6.) On the hearing of the application the judge, if satisfied with the proposed guardian, may appoint him to act as such guardian ; but if not so satisfied, the judge may appoint any other person willing to act as guardian ; or in default of such person, the judge may appoint the registrar to act as guardian ; and the action or matter shall thenceforth proceed as if a guardian had been appointed on behalf of the defendant. The judge may, if necessary, on the hearing of such application, postpone the trial.
- (7.) Provided, that where an infant is sued for a debt or other liquidated demand, the notice required by paragraph (3) of this rule need not be sent, nor shall paragraphs (4) to (6) of this rule apply, unless in any case the registrar thinks it necessary for the protection of such infant that such notice should be sent, or the judge directs such notice to be sent. [Order VIIA., Rule 1 : May, 1899. Paragraph 7 is new.]

Appoint-  
ment of  
guardian  
*ad litem* to  
defendant  
ascertained  
to be an  
infant or a  
person of  
unsound  
mind.  
Forms 57,  
58.

51. Where it does not appear on the face of the proceedings, but is made to appear in the course of the proceedings, that any defendant to an action or matter is an infant or a person of unsound mind not so found by inquisition, the following provisions shall apply :—

- (1.) If on any defendant appearing at the trial it appears that such defendant is an infant, and such defendant names a person as his guardian who then assents so to act, such person shall be appointed guardian accordingly : but if the defendant does not name a guardian, the judge may appoint as guardian any person in court who is willing to act as such guardian ; or in default of any such person the judge may appoint the registrar to act as guardian ; and the action or matter shall thenceforth proceed as if the infant had named a guardian, and the name of the guardian appointed shall be entered according to one or other of the forms in the Appendix.
- (2.) In any other case, on its being made to appear that any defendant is an infant or a person of unsound mind not so found by inquisition, a guardian *ad litem* to such defendant may be appointed at any time within six days of its being made to appear that such defendant is an infant or a person of unsound mind, on application made on



behalf of such defendant in accordance with paragraphs (1) and (2) of the last preceding rule; and if no such application is made within such period of six days, the registrar shall send notice to the plaintiff in accordance with paragraph (3) of the same rule; and thereupon the plaintiff shall, before proceeding further with the action or matter against such defendant, apply for such appointment in accordance with paragraphs (4) to (6) of the same rule. And the trial shall, if necessary, be postponed to allow an application for the appointment of a guardian to be made.

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VII.  
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(3.) Provided, that paragraph (7) of the last preceding rule shall apply to cases falling within this rule. [Rule 2, altered.]

52. Where a guardian is appointed under either of the two preceding rules, such appointment shall be entered on the summons and in the minute book, and on all subsequent proceedings. [Rule 3.]

Entry of appointment on summons, &c.

53. A guardian *ad litem* to an infant or a person of unsound mind not so found by inquisition shall not be personally liable to any costs not occasioned by his personal negligence or misconduct. [Rule 4.]

Limitation of liability of guardian for costs.

54. Where judgment has been obtained or an order made against a defendant who was at the time an infant or a person of unsound mind not so found by inquisition, without a guardian *ad litem* having been appointed to such defendant, the judge may set aside such judgment or order and order a new trial, or make such other order as may be just. [Rule 5.]

Power to set aside judgment against infant or person of unsound mind where no guardian appointed.

55. In the five preceding rules "summons" includes "petition," "plaintiff" includes "petitioner," "defendant" includes "respondent," and "trial" includes "hearing." [New.]

Application of preceding rules to petitions.

56. At any time during the proceedings under any judgment or order, the judge may, if he thinks fit, require a guardian *ad litem* to be appointed for any infant or person of unsound mind not so found by inquisition who has been served with notice of such judgment or order.

Guardian *ad litem* with reference to proceedings under judgment or order.

[New; R.S.C. Order LV., Rule 27.]

ORDER  
VIII.

## ORDER VIII.

## CONSOLIDATION OF ACTIONS OR STAY OF PROCEEDINGS. TRANSFER.

Consolidation of separate actions which might have been joined in one.  
Form 59.

1. Where several actions are brought by the same plaintiff against the same defendant in the same court for or in respect of different causes of action which might in accordance with the provisions of Order IV. have been joined in one action, the defendant may apply to the judge that the said actions may be consolidated. [Order VIII., Rule 1.]

Stay of proceedings in actions brought in respect of same matter, till judgment given in selected action.  
Form 60.  
Form 61.

2. Where several actions are brought by different plaintiffs against the same defendant in the same court for or in respect of causes of action arising out of the same breach of contract, wrong, or other circumstances, the defendant may, on filing an undertaking to be bound so far as his liability in the said several actions is concerned by the decision in such one of the said actions as may be selected by the judge, apply to the judge for an order to stay the proceedings in the actions other than the one so selected, until judgment is given in such selected action. [Rule 2.]

Applications under preceding rules.

3. Applications under the two preceding rules shall be made upon notice to the plaintiffs to be affected by any order made thereon. [Rule 3.]

Judge may impose terms.

4. Upon the hearing of any application for consolidation of actions or for stay of proceedings the judge may impose such terms and conditions and make such order in the matter as may be just. [Rule 4.]

Where judgment in favour of defendant in selected action.  
Form 62.

5. If judgment in a selected action under Rule 2 of this Order is given in favour of the defendant, the defendant shall be entitled to his costs up to the date of the order staying proceedings against every other plaintiff whose action is stayed, unless such plaintiff gives the registrar within one month from such judgment notice in writing to set down his action for trial. On such judgment being given, the registrar shall send to every other plaintiff a notice according to the form in the Appendix, and if any such plaintiff gives notice to the registrar to set down his action for trial, the registrar shall appoint a day for the trial, and send by post to both

plaintiff and defendant notice of the day so appointed at least eight clear days before such day. [Rule 5, revised.]

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6. If judgment in a selected action is given against the defendant, the plaintiffs in the actions stayed shall be at liberty to proceed for the purpose of ascertaining and recovering their debts or damages and costs. On such judgment being given the registrar shall send to each such plaintiff a notice according to the form in the Appendix, and a plaintiff desiring to proceed shall within one month from the date of such notice give to the registrar notice in writing to set down his action for trial, and on receipt of such notice the registrar shall appoint a day for the trial, and send by post to both plaintiff and defendant notice of the day so appointed at least eight clear days before such day. [Rule 6, revised.]

Where judgment given against defendant in selected action.  
Form 62.

7. Where several actions of contract are brought by the same plaintiff against several defendants in the same court, and the event of the said actions depends on the finding of the judge or jury on some question common to all the said actions, the judge may at any time select one of such actions for trial, and stay the proceedings in all the other actions until the judgment in the action so selected is given; but after judgment in such selected action, unless the plaintiff and the defendants in the other actions, or any of them, submit to have judgment passed and entered therein in accordance with the judgment in the action so selected, such other actions shall proceed in the same manner as if they had not been stayed; and on receipt of notice from the plaintiff or defendant in any such action to set down the action for trial the registrar shall appoint a day for the trial, and shall send by post to both plaintiff and defendant notice of the day so appointed at least eight clear days before such day.

Stay of actions for same cause against several defendants, till judgment given in selected action.  
[Rule 7, revised.]

8. Where actions are commenced in different courts by parties in the same interest, upon application by any of the parties they shall be transferred to the court in which the first plaint was entered, and shall there be proceeded with in the same way in all respects as if they had been commenced in that court. [Rule 8.]

Transfer of actions commenced in different courts.

9. Where application is intended to be made for the transfer of any action, matter, or proceeding under section eighty-five of the Act, or under the last preceding rule, or under Order XXXIII., Rule 19,

Application for transfer under last

ORDER  
VIII.

rule, or 51  
& 52 Vict.  
c. 43. s. 85  
or Order  
XXXIII.,  
Rule 19.  
Forms 120,  
121.

Costs  
before or  
occasioned  
by trans-  
fer.

Trans-  
mission of  
certified  
copy of  
proceed-  
ings.

three clear days notice in writing of such intended application shall be given by the applicant to the registrar of the court in which such action, matter, or proceeding is pending, and to all parties who may be affected by such application ; but the judge may at any time, by consent of all parties, or without such consent if he thinks fit, order a transfer, although this rule has not been complied with. When a transfer is ordered the judge may make such order as to the costs incurred before or occasioned by such transfer as he may think fit ; and a certified copy of the proceedings shall be transmitted in accordance with section eighty-five of the Act, and the provisions of that section shall apply. The costs of such copy and the costs of transmission shall be paid for in the first instance by the party on whose application the transfer has been made, or, if the transfer is made by the judge without any application to transfer being made to him, such costs shall be paid for in the first instance by the plaintiff in the action, matter, or proceeding : but such payment shall be without prejudice to any question as to the party by whom such costs are ultimately to be borne. [Rule 9, June, 1896, revised.]

## ORDER IX.

## ORDER IX.

DISCONTINUANCE, CONFESSION, ADMISSION, AND PAYMENT INTO OR  
OUT OF COURT.

Discon-  
tinuance.

Forms 63,  
253.  
Form 64.

1. If the plaintiff desires to discontinue any action or matter against all or any of the parties thereto, he shall give notice in writing by post or otherwise thereof to the registrar, and to every party as to whom he so desires to discontinue ; and after the receipt of such notice any such party may apply *ex parte* for an order against the plaintiff for the costs incurred before the receipt of such notice, and for the costs of attending the court to obtain the order.

Stay of  
subsequent  
action till  
payment  
of costs  
of discon-  
tinued  
action.

A discontinuance under this rule shall not be a defence to any subsequent action ; but if after such discontinuance a subsequent action is brought for the same or substantially the same cause of action before payment of the costs allowed on such discontinuance, the judge may, if he thinks fit, order a stay of such subsequent action until such costs have been paid.

[Order IX., Rule 1 : Second paragraph new ; see R.S.C.  
Order XXVI., Rules 1-4.]

2. Confessions under section ninety-eight of the Act shall be delivered to the registrar five clear days at least before the return day : Provided that at any time before an action is called on the defendant may confess and admit the claim according to the form in the Appendix, subject, however, to an order by the court to pay such costs as the plaintiff has incurred in consequence of the defendant not having delivered such confession as herein-before required. [Rule 2.]

ORDER IX.

Confessions under 51 & 52  
 Vict. c. 43.  
 s. 98.  
 Forms 65-68.

3. Where a defendant does not appear on the return day, and has not signed a confession under section ninety-eight of the Act, the court may accept as an admission of the claim or any part thereof any letter addressed to the court containing such an admission, and purporting to be written by or on behalf of the defendant, if the court is satisfied that such letter was in fact written by or by the authority of the defendant ; and a note of such letter having been accepted as an admission shall be entered in the minute book.

Admission by letter addressed to court.  
 [Rule 2a, April, 1895, amended May, 1899.]

4. In cases of consent under section ninety-nine of the Act, the defendant may confess the amount of the plaintiff's costs besides the court fees, and judgment may be entered accordingly, and the amount of the plaintiff's costs shall be stated separately. [Rule 3.]

Consents under 51 & 52  
 Vict. c. 43.  
 s. 99.  
 Forms 69, 70.

5. Where a defendant desires to admit the truth of the statements in the plaintiff's particulars, and to submit to the judgment of the court thereon, he may in the presence of any registrar, or of a clerk to a registrar, or of a solicitor, sign an admission according to the form in the Appendix ; and the signature of the defendant thereto shall be verified by affidavit, unless the admission is signed in the presence of a registrar, or of a clerk to a registrar. Such admission shall be filed five clear days at least before the return day, and the registrar shall transmit a notice thereof by post to the plaintiff ; and the plaintiff shall not, unless the judge otherwise orders, be allowed any costs incurred after the service upon him of notice of such admission in relation to the proof of the matter so admitted : Provided that the plaintiff shall be entitled, notwithstanding such admission, to his costs of attending on the day of trial to enter up judgment and tax his costs. [Rule 4.]

Admission of truth of plaintiff's statement.

Form 71

Form 72.

## ORDER IX.

Admission  
by any  
party.  
[Rule 5.]  
Form 71.

6. Any party to an action or matter may give notice in writing to any other party that he admits the truth of the whole or any part of the case or claim of such other party, and no costs incurred after the receipt of such notice in respect of the proof of any matters admitted therein shall be allowed ; but the costs of any steps taken prior to the receipt of such notice may be allowed, if the registrar on taxation is of opinion that they were not taken unnecessarily or prematurely.

Confession  
by defend-  
ant in  
action of  
ejectment  
or for re-  
covery of  
possession.  
Forms 256,  
274.  
[Rule 6.]

7. Any defendant in an action of ejectment or for the recovery of possession of a tenement may at any time before the return day confess the action as to the whole or any part of the land by signing in the presence of any registrar or of a clerk to a registrar, or of a solicitor, an admission of the title of the plaintiff to the land or such part thereof, and of his right to the possession thereof, which admission shall be attested by the person in whose presence it is signed ; and the registrar shall upon the receipt of such admission forthwith give notice thereof by post to the plaintiff ; and the court may on the return day, upon proof of the signature of the defendant to such admission, by affidavit or otherwise, in case the same is not attested by a registrar or a clerk to a registrar, and without any further proof of the plaintiff's title (if no defendant other than the defendant signing such admission defends for the said land or such part thereof), give judgment for the plaintiff for the recovery of possession, and for costs. Provided that if the plaintiff receives notice of such admission before the return day, he shall not be entitled as against any defendant signing to any costs incurred subsequently to the receipt of such notice, except the costs of attending the court on the return day, unless the court otherwise orders. Provided also, that where the admission is not signed by all the defendants defending for the said land or such part thereof, the action shall proceed against all the defendants who have not signed as if no admission had been signed.

Form 275

Notice to  
admit  
specific  
facts.

Form 113.

Form 114.

8. Any party may by notice in writing according to the form in the Appendix, at any time not later than six clear days before the return day, call on any other party to admit, for the purposes of the action, matter, or issue only, any specific fact or facts mentioned in such notice. And in case of refusal or neglect to admit the same by the delivery of a written admission of the fact or facts as aforesaid not less than three clear days before the return day, the costs of

proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the action, matter, or issue may be, unless at the trial the court certifies that the refusal to admit was reasonable, or unless the court at any time otherwise orders. Provided that any admission made in pursuance of such notice shall be deemed to be made only for the purposes of the particular action, matter, or issue, and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving notice : Provided also, that the court may at any time allow any party to amend or withdraw any admission so made on such terms as may be just.

ORDER IX.  
[Rule 7.]

9. An affidavit of the solicitor or his clerk, of the due signature of any admissions made in pursuance of this Order, shall be sufficient evidence of such admissions, if evidence thereof be required. [Rule 8.]

Evidence of admissions.  
Forms 66, 70, 72.

10. At any time after the entry of a plaint for partition, all the parties interested may attend and accept service and sign the request referred to in section four of the Partition Act, 1868, and their signatures shall be attested by the registrar, or by one of his clerks. Where all the parties interested have signed the request, the order for the sale thereon may be made at the next court to be held, although such court may be held before the return day of the summons. [Rule 9.]

Request under 31 & 32 Vict.c.40 may be signed at any time after entry of plaint.  
Form 325.

11. Upon an order for sale being made in a partition action, the judge shall appoint one solicitor to have the conduct of the proceedings, and no other solicitor shall be entitled to any costs incurred after such order has been made. [Rule 10.]

Conduct of proceedings on order for sale in partition action.

12.—(1.) A defendant who desires to pay money into court pursuant to section one hundred and seven of the Act shall pay the same five clear days at least before the return day. Every such payment shall be taken to admit *pro tanto* the claim or cause of action or complaint in respect of which the payment is made, unless the defendant at the time of paying the money into court files with the registrar a notice according to the form in the Appendix, stating his name and address, and further stating that notwithstanding such payment the defendant denies his liability ; but no such payment with

Payment into Court.  
51 & 52 Vict. c. 43. s. 107.  
[Order IX., Rule 11.  
Paragraph 1 altered ; paragraph 4 altered,  
June 1896.]

Form 75.

**ORDER IX.** a denial of liability shall be permitted in any action or counter-claim for libel or slander. The defendant must also pay into court, in respect of the court fees and solicitor's costs (if any) entered on the summons, a sum proportionate to the amount paid in in respect of the claim, unless the payment into court is made under a defence of tender, in which case he may make such payment without costs.

**Forms 73, 74.** (2.) The registrar shall, within twenty-four hours from the time of any payment made pursuant to the last preceding paragraph, send to the plaintiff notice thereof; and when such payment is made with a denial of liability, he shall also send therewith a copy of the notice prescribed by the last preceding paragraph.

(3.) The defendant may also at any time less than five clear days before the return day pay money into court, and notice thereof shall be given by the registrar to the plaintiff in accordance with the last preceding paragraph; but the defendant shall not be permitted, except by leave of the court, to give a notice denying liability at the time of such payment.

(4.) Where money is paid into court less than five clear days before the return day, or where it is in any case paid in without costs, if the plaintiff does not elect to accept the money so paid in satisfaction, he may proceed as if no such payment had been made, and, unless the court otherwise orders, he shall be entitled to costs on such sum as he may recover, whether such sum be less than the sum paid into court or not.

**Acceptance of amount paid in in satisfaction of claim.**

**Form 76.**

**[Rule 12a, June, 1896.]**

13.—(1.) If the plaintiff elects to accept, in satisfaction of his claim, the money paid into court by the defendant, whether the same has been paid in in due time or not, or with or without costs, or with or without a notice of denial of liability, he shall send to the registrar and to the defendant by post, or leave at the registrar's office and at the defendant's dwelling or place of business, a written notice according to the form in the Appendix, stating such acceptance, within such reasonable time before the return day as the time of payment by the defendant has permitted.

(2.) Thereupon the action shall abate, except as herein provided, and the plaintiff shall not be liable to any costs incurred by the defendant after receiving such notice.



(3.) In any such case the court may in its discretion order the defendant to pay such fees and costs, beyond the fees and costs (if any) paid into court by the defendant, as the plaintiff may have properly incurred for work done before the receipt of notice of payment into court, and in attending the court to obtain the order for the same (including, if the judge on consideration of the facts of the case so orders, any of the items which might have been allowed by order of the judge at the trial), but no hearing fee shall be charged.

ORDER IX.

Provision  
as to costs.

Form 77.

(4.) If the plaintiff intends to apply for such costs, he shall give notice of his intention in his notice of acceptance of the sum paid in, according to the form in the Appendix, or where the time of payment into court by the defendant does not permit of notice of acceptance being given, the plaintiff may apply for such costs without giving such notice. [Words after "Appendix" new.]

Form 76.

(5.) Where the plaintiff has not given notice of acceptance in accordance with paragraph 1 of this rule, he may nevertheless accept the money paid into court at any time before the case is called on and opened, subject to the payment of any costs which may have been reasonably incurred by the defendant since the date of payment into court, and which may be allowed by the court.

(6.) In default of acceptance by the plaintiff the action may proceed.

14. Where a defendant in an action of libel remitted under section sixty-six of the Act pays money into court under section two of the Libel Act, 1843, the rules of this Order shall apply to and be observed with reference to such payment into court, so far as they are applicable. [Rule 13.]

Payment  
in remitted  
action of  
libel.  
51&52 Vict.  
c. 43. s. 66.  
6 & 7 Vict.  
c. 96. s. 2.  
Form 87.

15. Where a notice of defence under section eighty-six of the Act has been given, and the defendant, before notice of the day fixed by the registrar for the trial has been sent to the plaintiff, pays into court the amount or a portion of the amount claimed, together with a sum in respect of the court fees and solicitor's costs (if any) entered on the summons proportionate to the amount paid in in respect of the claim, he shall not be liable to any further costs if the plaintiff accepts the money paid in in satisfaction of his claim. Where payment into court is made after notice of trial has been so sent, the provisions of Rule 13 of this Order shall apply.

Where pay-  
ment made  
after notice  
of defence  
given  
under  
51&52 Vict.  
c. 43. s. 86.  
[Substi-  
tuted for  
Order IX.,  
Rule 14.]

ORDER IX. 16. A plaintiff may, in answer to a counter-claim, pay money into court in satisfaction thereof, subject to the like conditions by plaintiff as to costs and otherwise as upon payment into court by a defendant. [Rule 15.]

Fees and costs on payment of amount admitted after deducting set-off or counter-claim.

17. Where a defendant pays into court any sum admitted by him to be due, after deducting any amount claimed by him as a set-off or counter-claim, he must pay into court in respect of the court fees and solicitor's costs (if any) entered on the summons a sum proportionate to the amount paid in in respect of the plaintiff's claim. [Substituted for Rule 16a (July, 1892).]

Money paid in to be retained if defence be tender.

18. Where a defendant pays money into court in order that he may rely on the defence of tender, the money shall not be paid out until after the judgment, and any costs awarded to the defendant shall be deducted therefrom and paid to the defendant. [Rule 17.]

Money paid in with denial of liability. [Rule 17a, May, 1899.]

19. Where a defendant pays into court a sum less than the sum claimed, with a notice of denial of liability, and the plaintiff does not accept the same in satisfaction of his claim, the money shall not be paid out until after the trial and judgment; and if the plaintiff recovers less than the amount paid into court, the balance of such amount shall be repaid to the defendant, unless the court otherwise orders, and the court may order any costs awarded to the defendant to be set off against the amount recovered by the plaintiff; and if the defendant succeeds, the whole amount paid into court shall be repaid to him, unless the court otherwise orders.

Payment to plaintiff instead of into court. Form 76.

20. Where money is paid to the plaintiff instead of being paid into court, the following provisions shall apply :—

- (1.) If the plaintiff accepts the money so paid in satisfaction of his claim, he shall send to the registrar and to the defendant notice of such acceptance in accordance with Rule 13 of this Order.
- (2.) Thereupon the action shall abate, except as herein provided, and the plaintiff shall not be liable to any costs incurred by the defendant after receiving such notice.

- (3.) In any such case the court may, in its discretion, order the defendant to pay such fees and costs, beyond the fees and costs (if any) paid to the plaintiff by the defendant, as the plaintiff may have properly incurred for work done before the receipt of the money so paid, and in attending the court to obtain the order for the same (including, if the judge on consideration of the facts of the case so orders, any of the items which might have been allowed by order of the judge at the trial), but no hearing fee shall be charged. ORDER IX.  
Form 77.
- (4.) If the plaintiff intends to apply for such costs, he shall give notice of his intention according to the form in the Appendix, in accordance with Rule 13 of this Order, or where the time of payment to the plaintiff by the defendant does not permit of notice of acceptance being given, the plaintiff may apply for such costs without giving such notice. Form 76.
- (5.) Where the plaintiff has not given notice of acceptance in accordance with paragraph 1 of this rule, he may nevertheless accept the money paid to him at any time before the case is called on and opened, subject to the payment of any costs which may have been reasonably incurred by the defendant since the date of payment, and which may be allowed by the court.
- (6.) In default of acceptance the action may proceed.
- (7.) If the action proceeds, the sum paid to the plaintiff shall be included for the purpose of calculating the amount on which the hearing fee and any costs allowed to the plaintiff are to be charged ; but if the plaintiff recovers more than the sum so paid, judgment shall be entered only for the additional amount recovered and for the fees and costs so allowed to the plaintiff : and if the plaintiff recovers no more than the sum so paid, the judge may order him to pay to the defendant the costs incurred by him after such payment. [New.] [*Hughes v. Justin.*  
1894, 1 Q.B.  
667.]

21. Money paid into court, whether under a judgment or order or otherwise, shall be paid out to plaintiffs pursuant to Order II., Rule 10, on production of the plaint note or the duplicate mentioned Payment  
of money  
out of  
court.

**ORDER IX.** in Order VII., Rule 1, and to defendants on production of the summons issued in the action, or the duplicate mentioned in Order LIV., Rule 26. Money paid into court by plaintiffs in replevin or under Rule 16 of this Order shall be paid out pursuant to Order II., Rule 10, on proof to the satisfaction of the registrar that the person applying for the same is entitled or authorised to receive the same. [Rule 18.]

Payment  
out of  
court by  
cheque or  
post office  
order.  
[Rule 19.]

22. Where money has been paid into any court other than the court within the district of which the party to whose credit such money has been so paid resides or carries on business, upon transmission of the plaint note, with a request and a receipt (duly stamped where necessary) by such party, the registrar of the court into which the money has been so paid shall transmit such money to such party by registered post letter, inclosing a crossed cheque or a post office order less the cost of remittance, and such remittance shall be at the risk of the said party. For the purpose of this rule the several districts of the metropolitan courts shall be considered *inter se* as one district only. [Rule 19.]

When rules  
of this Order  
not to apply.  
51 & 52 Vict.  
c. 43. ss. 67  
to 71.  
31 & 32 Vict.  
c. 40.  
39 & 40 Vict.  
c. 17.

23. The rules of this Order as to payment into or out of court shall not apply to any payment into or out of court in pursuance of any order or direction made under the provisions of sections sixty-seven to seventy-one of the Act, or the Partition Acts, 1868 and 1876, or otherwise under the equitable jurisdiction of the court. [Rule 20.]

Payment  
into court  
and invest-  
ment of  
moneys  
awarded to  
or re-  
covered  
by infant  
or person  
of unsound  
mind.

24. In any action or matter in which a sum of money has been awarded to or recovered by an infant or person of unsound mind not so found by inquisition, the judge may at or after the trial order that the whole or any part of such sum shall be paid into court to the credit of an account intituled in the action or matter; and any sum so paid into court may either be invested, or be paid from time to time out of court to such person as the judge may direct, to be held and applied for the benefit of such infant or person of unsound mind in such manner as the judge may from time to time direct. [Rule 21.]

Orders as  
to moneys  
in court or

25. When any moneys have been paid into court or invested pursuant to the order of the judge under the last preceding rule, it

shall not be necessary that applications in regard to them shall be made by petition. Any person interested may apply in person to the judge, and he, on such evidence of right and identity as he may think necessary, may make such order as he may think fit. [Rule 22, Feb., 1892.]

ORDER IX.  
invested  
under last  
rule.

26. Where an action or matter is tried with a jury, no communication to the jury shall be made until after the verdict is given, either of the fact that money has been paid into court, or of the amount paid in. The jury shall be required to find the amount of the debt or damages, as the case may be, without reference to any payment into court. [Rule 23, June, 1896.]

Payment  
into court  
not to be  
communi-  
cated to  
jury.

## ORDER X.

ORDER X.

### SPECIAL DEFENCES.

1. Where a plaintiff sues on behalf of or for the benefit of others having the same interest, the defendant may avail himself of any defence in respect of each of the persons in whose behalf or for whose benefit the plaintiff so sues which he would have had against such person if he had been plaintiff. [Order X., Rule 1.]

Where  
plaintiff  
sues on  
behalf of  
others.

2. A defendant in an action may set off, or set up by way of counter-claim against the claims of the plaintiff, any right or claim, whether such set-off or counter-claim sound in damages or not, and such set-off or counter-claim shall have the same effect as a cross action, so as to enable the court to pronounce a final judgment in the same action, both on the original and on the cross claim. [Rule 2.]

Set-off and  
counter-  
claim.  
[Rule 2.]

3. Where the plaintiff objects in writing under the powers given by section eighteen of the Supreme Court of Judicature Act, 1884, to the court giving any relief on any counter-claim exceeding that which the court would have jurisdiction to give independently of that section, he shall give notice in writing of his objection to

Objection  
by plaintiff  
under 47 &  
48 Vict.  
c. 61. s. 18.  
[Rule 3.]

**ORDER X.** the registrar and to the defendant, according to the form in the  
**Form 78.** Appendix, within two clear days after the receipt of notice of the counter-claim. The plaintiff may at the time of giving notice of objection also give notice that he will on the day fixed for the trial apply to the judge to adjudicate upon the original claim (if not admitted), subject to such order as the judge may make for the stay of execution or otherwise in reference thereto.

In action of ejectment or for recovery of possession, any person not named as a defendant may, by leave, appear.

4. In an action of ejectment or for the recovery of possession of a tenement any person not named as a defendant in the summons may by leave of the court be allowed to appear and defend on filing, in an action of ejectment twelve clear days, and in an action for the recovery of possession five clear days at least before the return day an affidavit, together with as many copies thereof as there are plaintiffs and defendants, showing that he is in possession either by himself or his tenant of the property or some part thereof mentioned in the particulars (such part being described in the affidavit with reasonable certainty) ; and upon such affidavit being filed and leave given, the registrar shall enter the name, address, and description of the person filing the affidavit in the plaint book as a defendant in addition to the name of every person originally made defendant, and shall in an action of ejectment ten clear days, and in an action for the recovery of possession three clear days at least before the return day give notice, according to the form in the Appendix, by post or otherwise, to the plaintiffs and the original defendants, that the person filing the affidavit has filed the same, and will appear and defend at the trial of the action, annexing to each notice a copy of the affidavit. In all subsequent proceedings in the action the person filing the affidavit shall be named as a defendant. [Rule 4.]

**Form 254.**

In action of ejectment or for recovery of possession, defendant may give notice that he will limit his defence to part of the property.

5. In an action of ejectment or for the recovery of possession of a tenement any defendant may, in an action of ejectment twelve clear days, and in an action for the recovery of possession five clear days at least before the return day, file with the registrar a notice in writing, together with a copy for the plaintiff, according to the form in the Appendix, that he intends to limit his defence to a part only of the property mentioned in the particulars, describing that part in such notice with reasonable certainty ; and the registrar shall in an action of ejectment ten clear days, and in an action for the recovery

**Form 255.**

of possession three clear days at least before the return day send the copy of such notice by post to the plaintiff. [Rule 5.] ORDER X.

6. A defendant intending to avail himself of the power given by section sixty-two of the Act to object to an action being tried in the court, shall give notice in writing to the registrar and to the plaintiff five clear days at least before the return day, by post or otherwise, according to the form in the Appendix, and shall therein name the parties whom he proposes to be his sureties, or state therein his willingness to deposit money in lieu of giving security; and if he fails to give such security or make such deposit before the return day, or fails to give such notice of his intention to object as aforesaid, he shall not be entitled to object to the action being tried in the court. He shall also after giving such notice as aforesaid apply *ex parte* to the judge on affidavit for his certificate that in his opinion some important question of law or fact is likely to arise in the action, and if the certificate is granted notice thereof shall be sent by the registrar to the plaintiff by post or otherwise. The affidavit above referred to shall specify any important questions of law or fact which are likely to arise in the action; and in the case of a question of law, shall further specify the facts which are relied on as likely to raise such question. [Rule 6.]

Objection to jurisdiction of court. 51 & 52 Vict. c. 43. s. 62.  
Form 79.  
Form 82.  
Form 80.  
Form 81.

7. Where a plaintiff avails himself of the provisions of section ninety-seven of the Act, and does not proceed against all of several persons jointly answerable, every defendant sued may avail himself of any defence or counter-claim to which he would have been entitled if all the persons liable were made defendants. [Rule 7.]

Where one of several persons jointly answerable is sued. 51 & 52 Vict. c. 43. s. 97.

8. Where in an action any person has been improperly or unnecessarily joined as a co-plaintiff, and a defendant has set up a set-off or counter-claim, he may obtain the benefit thereof by establishing his set-off or counter-claim as against the parties other than the co-plaintiff so joined, notwithstanding the misjoinder of such plaintiff or any proceeding consequent thereon. [Rule 8.]

Misjoinder of plaintiffs not to defeat counter-claim.

9. A defendant in any action or matter may file a statement disclaiming any interest in the subject matter thereof, or admitting or denying any of the statements in the plaintiff's particulars, or

Disclaimer, admission, and other statements by defendant.

**ORDER X.** raising any question of law on such statements without admitting the truth thereof; or he may state concisely any new fact or document upon which he intends to rely as a defence, or which he intends to bring to the notice of the court; and a copy of such statement shall be filed therewith, and such copy shall be transmitted by the registrar to the plaintiff: Provided always, that in exercising his discretion as to costs the judge shall consider the fact of a defendant having or not having availed himself of the powers given by this rule. This rule shall apply to a plaintiff who is defendant by counter-claim. [Rule 9.]

Notice to  
be given of  
special  
defences.

Forms 84,  
85.

10. Where a defendant intends to rely on any of the grounds of defence mentioned in Rules 12, 13, 14, 15, 16, 17, 18, 19, and 20 of this Order, or upon any set-off or counter-claim, he shall file in duplicate a notice stating thereon his name and address, together with a concise statement of his grounds of defence, or of his set-off or counter-claim, five clear days at least before the return day; and the registrar shall thereupon, within twenty-four hours after receiving the same, transmit by post one copy of such notice and statement to the plaintiff: Provided that in case of non-compliance with this and the above-mentioned rules, and of the plaintiff's not consenting at the trial to permit the defendant to avail himself of such defence, set-off, or counter-claim, the judge may, on such terms as he may think fit, adjourn the trial of the action to enable the defendant to give such notice. [Rule 10.]

Set-off or  
counter-  
claim.

Form 84.

11. Where a defendant intends to rely on a set-off or counter-claim against any of the claims of the plaintiff, his statement shall contain particulars of such set-off or counter-claim, and *mutatis mutandis* the provisions of Order VI. shall apply to such particulars. [Rule 11.]

Infancy.

Form 85.

12. Where a defendant intends to rely on the defence of infancy, he shall in his statement set forth, so far as he is able, the place and date of his birth. [Rule 12.]

Coverture.

Form 85.

13. Where a female defendant intends to rely on the defence of coverture, she shall in her statement set forth, so far as she is able, the place and date of her marriage, together with the Christian name



and surname of her husband, and his address and description so far as known. [Rule 13.] ORDER X.

14. Where a defendant intends to rely on the defence of any statute of limitations, his statement shall be according to the form in the Appendix. [Rule 14*a*, April, 1895.] Statute of limitations.  
Form 85.

15. Where a defendant intends to rely on the defence of a release under any statute relating to bankrupts, he shall in his statement set forth the date of his discharge, and the court by which such discharge was granted. [Rule 15.] Bankruptcy.  
Form 85.

16. Where in any action for libel or slander the defendant relies as a defence on the fact that the libel or slander is true, he shall in his statement set forth that the libel or slander complained of is true in substance. [Rule 16.] Defence that libel or slander is true.  
Form 85.

17. Where in any action for libel or slander the defendant does not rely as a defence on the fact that the libel or slander is true, but relies in mitigation of damages on the circumstances under which the libel or slander was published, or on the character of the plaintiff, he shall in his statement give particulars of the matters relating thereto as to which he intends to give evidence. [Rule 17.] Facts in mitigation of damages in libel or slander.  
Forms 86, 87.

18. When in any action the defendant relies on any statutory defence, or on any defence of which he is required by the Act or any statute to give notice, he shall in his statement (except in the case provided for by Rule 14 of this Order) set forth the year, chapter, and section of the statute, or the short title thereof, and the particular matter on which he relies, or otherwise sufficiently indicate the nature of the defence on which he relies. [Rule 18*a*, Feb. 1892 ; amended Nov. 1900.] Statutory defence.  
Form 85.

19. Where a defendant claims to be entitled as matter of defence to any equitable estate or right, or to relief on any equitable ground against the claim of the plaintiff, or any part thereof, he shall in his statement show concisely the circumstances which give rise to such defence, and set forth separately each of the grounds of equitable defence. [Rule 19.] Equitable relief.  
Form 85.

20. Where the defence is a tender, such defence shall not be available unless, at the time of filing the notice of such defence, the Tender.  
Form 85.

**ORDER X.** defendant makes payment into court (which may be without costs) of the amount alleged to have been tendered. [Rule 20.]

Notice of  
defence to  
counter-  
claim.

21. Where in answer to a counter-claim the plaintiff intends to rely on any of the defences mentioned in Rules 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 of this Order, he shall file notice thereof in accordance with the said rules. All the provisions of Rule 10 of this Order, *mutatis mutandis*, shall apply to such notice, except that the provision as to the time for giving such notice shall not apply unless the plaintiff, after receipt of notice of counter-claim, might, if he had used reasonable expedition, have filed his notice five clear days before the return day. [Rule 21.]

Where  
counter-  
claim  
affects  
other per-  
sons.

22. Where a defendant by his defence sets up any counter-claim which raises questions between himself and the plaintiff along with any other person, he may apply to the court under Order XIV., Rule 2, to add the name of such person as a party to the counter-claim; and that rule, and the other provisions of Order XIV., and Rule 21 of this Order, shall apply to a person made defendant to a counter-claim in the same manner as to a person made defendant to an action, or to a plaintiff made defendant to a counter-claim. [Rule 22, altered.]

**ORDER XI.**

## ORDER XI.

### CLAIM FOR CONTRIBUTION OR INDEMNITY.

Notice of  
claim to  
contribu-  
tion or in-  
demnity.  
Filing and  
service.  
Form 88.

1. Where a defendant claims to be entitled to contribution or indemnity against any person not a party to the action, he shall, five clear days at least before the return day, file a notice of his claim, according to the form in the Appendix, and the registrar shall seal such notice and deliver it to the defendant, who shall forthwith serve the same, together with a copy of the summons on the plaintiff and of the particulars annexed thereto, on the person against whom such claim is made, according to the rules relating to the service of default summonses.

Where the original action has been commenced by default summons, the defendant shall not be entitled to serve a notice under this rule

before he gives notice of intention to defend ; and on the filing of the notice the registrar shall seal and deliver to the defendant a duplicate of the notice of the day on which the action will be tried, and the defendant shall serve the same with the notice of his claim. ORDER XI.

Where, if the defendant desired to enter a plaint and issue a summons against the person against whom he claims to be entitled to contribution or indemnity, leave to enter such plaint would be required under section seventy-four of the Act, the defendant shall not be entitled to serve a notice under this rule without leave of the court, to be obtained in the manner in which leave to enter a plaint is obtained. Leave,  
when  
required.  
  
51 & 52  
Vict., c. 43,  
s. 74.

[Order XI., Rule 1 ; amended Nov. 1900 ; last paragraph new.]

2. If any person served with a notice under the last preceding rule (herein-after called the third party) desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given, or his own liability to the defendant, he must appear at the court on the return day mentioned in the summons, (or in case the original action is commenced by default summons on the day mentioned in the notice of trial), or on any day to which he may have received notice from the registrar that the trial has been adjourned or postponed ; and in default of his so doing he shall be deemed to admit the validity of the judgment obtained against such defendant, whether obtained by consent or otherwise, and his own liability to contribute or indemnify, as the case may be, to the extent claimed in the said notice. Appear-  
ance  
of third  
party.  
  
Default of  
appear-  
ance.

Provided that if it appears to the court that the notice of claim has not been served on the third party in time to enable him to appear on the day hereinbefore mentioned, or that for any other sufficient cause the third party is unable to appear on such day, the court may adjourn the proceedings against the third party, or the original action and the proceedings against the third party, on such terms, as to costs and otherwise, as may be just. [Rule 2, altered.]

3. Where a third party fails to appear on the day mentioned in Rule 2 of this Order, or, if the proceedings are adjourned under that rule, on the day to which the proceedings are adjourned, then Proceed-  
ings on  
default of  
appearance  
by third  
party.

(a) if judgment in the original action is given in favour of the plaintiff on default of appearance by the defendant, the

## ORDER XI

defendant may at any time after satisfaction of the judgment against himself, or before such satisfaction by leave of the court, apply to the judge to enter judgment against the third party to the extent of the contribution or indemnity claimed in the third party notice, and the judge may enter judgment accordingly : or

(b) if the original action is tried, and results in favour of the plaintiff, the judge may, on the application of the defendant, at or after the trial, enter such judgment as the nature of the case may require for the defendant giving the notice against the third party ; provided that execution thereon shall not be issued without leave of the judge until after satisfaction by such defendant of the judgment against him ; or

(c.) if the original action is finally decided in favour of the plaintiff otherwise than by trial, the judge may, on application by the defendant, order such judgment as the nature of the case may require to be entered for the defendant giving the third party notice against the third party, at any time after satisfaction by the defendant of the amount recovered by the plaintiff against him.

Provided that the judge may set aside or vary any judgment entered against the third party under this rule upon such terms as may be just. [Rule 2, revised ; *see* R.S.C., Order XVI., Rules 50, 51.]

Applica-  
tion for  
directions.  
What  
directions  
may be  
given.

4. Any third party, or the defendant in the action, may apply at or before the trial to the judge for directions ; and the judge, upon the hearing of the application, may, if satisfied that there is a question proper to be tried as to the liability of the third party to make the contribution or indemnity claimed, in whole or in part, order the question of such liability as between the third party and the defendant giving the notice to be tried in such manner at or after the trial of the action as the judge may direct, and if not so satisfied may order such judgment as the nature of the case may require to be entered in favour of the defendant giving the notice against the third party ; or the judge may, if it appears desirable so to do, give the third party leave to defend the action upon such terms as may be just, or to appear

at the trial and take such part therein as may be just, or he may order such person to be substituted for or to be joined with the defendant in the action, upon such terms as to security or otherwise as may be just, and generally may direct such proceedings to be taken or amendments to be made and give such directions as he may think proper for having the question most conveniently determined, and as to the mode or extent in or to which the third party shall be bound or made liable by the judgment in the action. [Rule 3, revised.] ORDER XI.

5. The judge may decide all questions of costs, as between a third party and the other parties to the action, and may order any one or more to pay the costs of any other or others, or give such directions as to costs as the justice of the case may require. [Rule 4.] Costs.

6. Where a defendant claims to be entitled to contribution or indemnity against any other defendant to the action, a notice may be issued and the same procedure shall thereupon be adopted, for the determination of such questions between the defendants, as would be issued and taken against such other defendant, if such last-mentioned defendant were a third party: but nothing herein contained shall prejudice the rights of the plaintiff against any defendant in the action. Claim to contribution or indemnity against co-defendant. [Rule 5.]

Provided that leave of the court shall not be required for the issue of a notice to be served on a person who is already a defendant to the action. [Rule 5, proviso new.]

## ORDER XII.

ORDER  
XII.

### INTERLOCUTORY AND INTERIM ORDERS AND PROCEEDINGS.

1. When by any contract a *prima facie* case of liability is established, and there is alleged as matter of defence a right to be relieved wholly or partially from such liability, the court may make an order for the preservation or interim custody of the subject matter of the litigation, or may order that the amount in dispute be brought into court or otherwise secured. [Order XII., Rule 1.] Where defence is an alleged right to be relieved of a *prima facie* case of liability.

**ORDER  
XII.**

Order for  
sale of  
perishable  
articles, &c.

2. The court may, upon the application of any party to any action or matter, make any order for the sale by any person named in such order, and in such manner and on such terms as the court may think desirable, of any goods, wares, or merchandise which may be of a perishable nature or likely to injure from keeping, or which incur charges for food or keep, or which for any other just and sufficient reason it may be desirable to have sold at once. [Rule 2.]

Order for  
detention,  
preserva-  
tion, &c.

3. The court may upon the application of any party to an action or matter, and upon such terms as may be just, make any order for the detention, preservation, inspection, surveying, measuring, or weighing of any property or thing, being the subject of such action or matter, or as to which any question may arise therein, and may for all or any of the purposes aforesaid authorise any persons to enter upon or into any land or building in the possession of any party to such action or matter, and authorise any samples to be taken, or any observation, plan, or model to be made or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence. [Rule 3.]

Order for  
registrar  
to take  
deposition  
of person  
ordered to  
weigh,  
inspect, &c.

4. Where an order is made for inspecting, surveying, measuring, weighing, or making any experiment, or for taking any sample, or making any plan or model, by any person to be named therein, such order may include an order for the registrar or some other person to be named therein to examine upon oath and take the deposition of the person so named, as to such measure, weight, or inspection, or the correctness of such survey, or the result of such experiment, or the fairness of such samples, or the accuracy of such plan or model, and such order may also empower any or either party to give the deposition so taken in evidence upon any trial or proceeding. [Rule 4.]

Order for  
inquiries  
or  
accounts.  
Form 304.

5. The judge may at any stage of the proceedings in an action or matter direct any necessary inquiries or accounts to be made or taken, notwithstanding that it may appear that there is some special or further relief sought or some special issue to be tried, as to which it may be proper that the action or matter should proceed in the ordinary manner. [Rule 10.]

Applica-  
tion for in-  
terlocutory

6. When any party desires before the trial an immediate order upon any of the matters following, (that is to say), an order in the

nature of an injunction, or for the appointment of a receiver, or for taking any accounts (whether the particulars pursuant to Order VI., Rule 2, claim such accounts, or the claim in the particulars involves taking such accounts), or for making any inquiries, he may file an application for such order, and apply to the judge, either in or out of court, upon affidavits setting forth the facts rendering such order immediately necessary; and the judge may upon such application make such order, and upon such terms, as he may think fit.

**ORDER  
XII.**

injunction  
or order.  
[Rule 5a,  
July,  
1892.]  
Form 344.  
Form 345.

7. Where a action is brought to recover, or a defendant in his defence seeks by way of counter-claim to recover, specific property other than land, and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same, but claims to retain the property by virtue of a lien or otherwise as security for any sum of money, the judge, upon being satisfied by affidavit or otherwise of the existence of such lien or security, may order that the party seeking to recover the property be at liberty to pay into court, to abide the event of the action, the amount of money in respect of which the lien or security is claimed, and such further sum (if any) for interest and costs as the judge may direct, and that upon such payment into court being made the property be given up to the party seeking to recover it. [Rule 6.]

Where  
specific  
property  
other than  
land is  
sought to  
be recovered,  
but is claimed  
to be retained  
under lien  
or as  
security.

8. The draft of any order applied for under any of the preceding rules of this Order shall be prepared beforehand by the party making the application, and shall be settled by the registrar. Where the application is made to and heard by the registrar, he shall sign the draft order settled by him, and shall seal and file the same, and shall issue a copy thereof under the seal of the court to the bailiff or the applicant's solicitor for service; and, where the application is made to the judge, the applicant shall present the draft order settled by the registrar to the judge for his approval, and the judge shall sign the same if he approves thereof, or shall make such alterations as he may deem necessary, and sign the draft as so altered; and the draft so signed shall be transmitted by the applicant to the registrar, who shall seal and file the same, and issue a copy thereof under the seal of the court to the bailiff or the applicant's solicitor for service.

Settle-  
ment, sign-  
ing, seal-  
ing, filing,  
and service  
of orders  
under  
preceding  
rules.  
[Rules 7 &  
8, revised.]

9. Where the residence or place of business of a defendant is more than twenty miles distant from the court in which the plaint is entered,

Deposit  
by plaintiff  
may be

ORDER  
XII.

ordered where defendant resident more than twenty miles from court shows defence on merits.

Forms 89,  
90, 91.

he may, not later than five clear days at least before the return day of the summons thereon, forward by registered post letter to the registrar of such court an affidavit disclosing a good defence upon the merits to the action. The registrar upon receipt of such affidavit, if satisfied that it discloses such a defence shall forthwith by notice, according to the form in the Appendix, call upon the plaintiff to deposit in court, within two clear days from the date of the notice, such a sum as the registrar may, having reference to all the circumstances of the case, direct. The registrar shall, where the deposit is made or not made, or the affidavit does not disclose a defence, send notice to the defendant according to such one of the forms in the Appendix as shall be applicable to the case ; and where the deposit is not duly made the action shall be struck out. [Rule 9.]

Application for order that loss of bill shall not be set up. 45 & 46 Vict. c. 61. s. 70.

10. An application under section seventy of the Bills of Exchange Act, 1882, in an action or proceeding upon a bill, for an order that the loss of the instrument shall not be set up, may be made to the court at any time before the hearing of the action, on notice in writing in accordance with the next following rule, supported by affidavit, a copy of which shall be served with the notice. If not so made, it may, by leave of the judge, be made at the hearing. In dealing with any such application, the court shall take into consideration any offer of indemnity proved to have been made on behalf of the applicant, and may grant the application upon such terms as to payment of costs by the applicant, postponement of the trial, and otherwise, as may be just. [Rule 10a, Nov. 1900.]

Practice on interlocutory applications.

11. Where by any statute or by these rules any interlocutory application is expressly or by reasonable intendment directed to be made to the court, or to the judge, or to the judge or registrar, or to the registrar, then, subject to the provisions of the particular statute or of the particular rule applicable thereto, and so far as the same shall not be inconsistent therewith, the following provisions shall apply :—

- (1.) The application may be made either in or out of court, and either *ex parte* or on notice in writing ; when made on notice, the notice shall be served on the opposite party two days at least before the hearing of the application, unless the judge or registrar gives leave for shorter notice ;



- (2.) No affidavit in support shall be necessary, but the judge or registrar, as the case may be, may, if he thinks fit, adjourn the hearing of the application and order affidavits in support to be filed ;
- (3.) The judge or registrar upon the hearing or adjourned hearing of the application may make an order absolute in the first instance, or to be absolute at any time to be ordered by him, unless cause be shown to the contrary, or may make such other order or give such directions as may be just ;
- (4.) The allowance of the costs of and incident to the application shall be in the discretion of the judge or registrar ; and no such costs shall be allowed on taxation without special order ;
- (5.) The taxation of costs, when allowed, shall not take place until the general taxation of the costs of the action or matter in which the application is made, or the action or matter is determined, unless the judge or registrar on the hearing of the application for good cause otherwise orders ;
- (6.) When an earlier taxation is ordered, the word "recovered," wherever it occurs in the scales, shall be deemed for the purposes of taxation to mean "claimed," and Column B. shall apply to all cases exceeding twenty pounds to the exclusion of Column C. ;

When the application may under the particular statute or rule be made to the registrar, and is so made, the following additional provisions shall apply :—

- (7.) The registrar may, if in doubt as to the proper order to be made, refer the matter to the judge forthwith or at the next court day or at the trial ;
- (8.) The judge may vary or rescind any order made by the registrar, and may make such order as may be just, and if necessary adjourn the trial.

[Rule 11a, Feb. 1892 ; amended, July, 1892.]

12. The court may at any time postpone the trial of any action or matter upon the joint application of the parties. [Rule 12 ; annulled in part, Nov. 1900.]

Postpone-  
ment of  
trial on  
joint appli-  
cation of  
parties.

ORDER  
XII.

Postpone-  
ment of  
trial pend-  
ing inter-  
locutory  
proceed-  
ings.  
Form 92.  
[Rule 13.]

13. Where in any action or matter interlocutory proceedings are contemplated or pending which cannot be concluded in time to enable the parties to prepare for the trial of such action or matter on the day fixed for the same, the court may, upon the application of any party, and upon being satisfied that such interlocutory proceedings are necessary and proper, make an order postponing such trial upon such terms as to costs or otherwise as may be just ; and such order, if made in the absence of the other party, shall be served upon him. [Rule 13.]

Postpone-  
ment of  
trial by  
court.  
Form 93.

14. Where it appears that from the course of proceedings in any action or matter the trial cannot be held on the return day, the court may postpone the trial until such other day as the state of the proceedings may require, and notice of such postponement shall be given by the registrar to all parties and persons interested who are not present when the order is made. [Rule 14.]

Adjourn-  
ment to  
enable  
party to  
comply  
with rules.

15. When anything required by the practice of the court to be done by either party before or during the trial has not been done, the court may, in its discretion, and on such terms as it shall think fit, adjourn the trial to enable such party to comply with the practice. [Rule 15.]

ORDER  
XIII.

ORDER XIII.

RECEIVER.

Receiver  
may be  
appointed  
though not  
asked for.  
Forms 299,  
300.

1. Where before, at, or after the trial of any action it appears to the judge expedient that a receiver be appointed, such appointment may be made whether the same be asked as part of the relief in the plaint or not. [Rule 1.]

Receiver  
to give  
security.  
Form 303.

2. Every receiver appointed by the judge, other than the high bailiff, shall, unless the judge otherwise orders, give such security to the registrar for the faithful discharge of his duties, and the payment over of money, as the judge shall direct. [Rule 2, altered.]

Remune-  
ration of  
receiver.

3. Every receiver appointed by the judge shall, unless otherwise ordered, be allowed a proper salary or allowance. [Rule 2a, May, 1899.]

4. The receiver shall submit his accounts to the registrar, and the registrar shall audit the same, as soon as conveniently may be after the realization of the assets, and immediately after such audit the receiver shall pay over to the registrar the balance found thereby to be in his hands. The account shall be written on foolscap paper bookwise, and the items shall be numbered consecutively, and the account shall be verified by affidavit and be therein referred to as an exhibit. [Rule 3.]
- ORDER  
XIII.  
—  
Audit of receiver's accounts at close of proceedings.
5. The registrar may require any receiver to produce any receipt, accounts, and vouchers necessary for verifying the account, and may disallow any item not proved to his satisfaction. [Rule 4.]
- Receiver to produce vouchers.
6. The receiver shall, at any time before the complete realization of the assets, produce his accounts to be audited upon receiving seven days notice in writing from the registrar so to do, and such notice may be sent by post or otherwise to the address of the receiver. [Rule 5.]
- Accounts may be ordered to be audited at any time.  
Form 301.
7. Where the duties of a receiver are continuous, no longer period than one year shall in any case be allowed to intervene between each audit. [Rule 6.]
- Interval between audits.
8. The registrar shall after each audit of a receiver's accounts make and sign a certificate stating the result of such audit. [Rule 6a, May, 1899.]
- Certificate of result of audit.
9. In no case shall it be necessary for any party to attend at the audit of a receiver's account, but where a party is dissatisfied with a receiver's account he may apply to the judge for a revision of the registrar's allowances. [Rule 7.]
- Attendance of party not required at audit.  
Revision of allowances.
10. The judge may order the receiver to pay over, at such time or from time to time as he may think fit, to the party entitled to the beneficial interest therein, or to the guardian of any infant, any yearly or other accruing rents or interest, instead of paying the same into court, and to take credit for such payments in his accounts when audited. [Rule 8.]
- Judge may direct receiver to pay moneys received to party entitled.  
Form 302.

ORDER  
XIII.

Neglect of  
receiver.

[Rule 9,  
May, 1899.]

11. With respect to any receiver who neglects to submit his accounts to be audited or to pay over any balance in his hands, the judge may from time to time, when his subsequent accounts are produced to be audited, disallow the salary or allowance therein claimed by such receiver, and may also, if he thinks fit, charge him with interest at the rate of five per cent. per annum upon any balance so neglected to be paid by him during the time such balance shall appear to have remained in the hands of such receiver.

Conse-  
quence of  
default by  
receiver.

12. In case of any receiver failing to leave any account or affidavit, or to pass any account, or to make any payment or otherwise, the receiver or the parties, or any of them, may be required to attend before the judge to show cause why such account or affidavit has not been left, or such account passed or such payment made, or any other proper proceeding taken; and thereupon the judge may give such directions and make such orders as may be proper, including directions for the discharge of any receiver and the appointment of another, and any orders as to costs. [Rule 10, May, 1899.]

As to ap-  
pointment  
of receiver  
by way of  
equitable  
execution.

13. In every case in which an application is made for the appointment of a receiver by way of equitable execution, the judge in determining whether it is just or convenient that such appointment should be made shall have regard to the amount of the debt and costs claimed by the applicant, to the amount which may probably be obtained by the receiver, and to the probable costs of his appointment, and may, if he thinks fit, direct any inquiries on these or other matters before making the appointment. [Rule 11, May, 1899.]

Fees and  
costs on ap-  
pointment  
of receiver  
by way of  
equitable  
execution.

14. Where a receiver is appointed by way of equitable execution, fees may be charged and costs may be allowed as on an interlocutory application in an equitable action or matter.

Provided that—

- (1.) Where the amount of debt and costs due to the applicant exceeds fifty pounds, but does not exceed one hundred pounds, the total amount to be allowed for fees and costs (exclusive of the allowance to the receiver, but including the costs of obtaining his appointment, completing his security, passing his accounts, and obtaining his discharge,)

shall not exceed two and a half per cent. of the amount of such debt and costs in respect of fees, or the like amount in respect of costs ;

ORDER  
XIII.  

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- (2.) Where the amount of such debt and costs exceeds twenty pounds, but does not exceed fifty pounds, the total amount to be allowed for fees and costs shall not exceed one pound five shillings in respect of fees, or the like amount in respect of costs ; and
- (3.) Where the amount of such debt and costs exceeds five pounds, but does not exceed twenty pounds, there may be allowed for fees and costs respectively such sums, not less than seven shillings and sixpence and not exceeding one pound in each case, as the judge may direct ;
- (4.) Where the amount of debt and costs does not exceed fifty pounds, the judge may, instead of directing the receiver to give security, direct that the applicant shall be answerable for the acts and defaults of the receiver, and that the receiver shall not receive more than the amount of the debt and costs due to the applicant, and the allowance to the receiver and the allowed fees and costs of obtaining the order appointing the receiver, without the leave of the judge. [Rule 12, May, 1899.]

#### ORDER XIV.

ORDER  
XIV.  

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#### AMENDMENT.

1. Where an action or matter has been commenced in the name of the wrong person as plaintiff or otherwise, or where it is doubtful whether it has been commenced in the name of the right person, the court, if satisfied that it has been so commenced through a *bonâ fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, may order any other person to be substituted or added as plaintiff or otherwise upon such terms, as to notice and otherwise, as may be just. [Rule 1.]

Change or  
addition of  
plaintiff.

2. No action or matter shall be defeated by reason of the misjoinder or nonjoinder of parties, and the judge may in every action or matter

Action not  
to be  
defeated

ORDER  
XIV.

by mis-  
joinder or  
nonjoinder  
of parties.

deal with the matter in controversy so far as regards the rights and interests of the parties actually before him. The court may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may be just, order that the names of any parties improperly joined, whether as plaintiffs or as defendants, be struck out, and that the names of any parties be added, whether as plaintiffs or defendants, who ought to have been joined, or whose presence before the judge may be necessary in order to enable him effectually and completely to adjudicate upon and settle all the questions involved in the action or matter. No person shall be added as a plaintiff suing without a next friend, or as the next friend of a plaintiff under any disability, without his own consent in writing thereto. Every person whose name is so added as defendant shall be served with a notice in manner herein-after mentioned, and the proceedings as against such party shall be deemed to have begun only on the service of such notice. [Rule 2.]

Form 95.

Where too  
few per-  
sons made  
plaintiffs.

3. Where it appears at the trial that a less number of persons have been made plaintiffs than by law required, the name of any omitted person may, at the instance of either party, be added, by order of the judge, on such terms as he may think fit, and thereupon the action shall proceed, in all respects, as if the proper persons had been originally made parties; and if such person, either at the trial or at some adjournment thereof, personally or by writing, consents to become a plaintiff in manner aforesaid, the judge may then pronounce judgment as if such person had originally been made a plaintiff; but if such person does not consent to become a plaintiff in manner aforesaid, either at the trial or at the adjournment thereof, the action or matter shall be struck out. [Rule 3.]

Change of  
defendant.

4. Where a person other than the defendant appears at the trial, and admits that he is the person whom the plaintiff intended to charge, or ought to have charged, his name may be substituted for that of the defendant, if the plaintiff consents; and thereupon the action shall proceed, in all respects, as if such person had been originally named in the summons; and the costs of the person originally named as the defendant shall be in the discretion of the court. [Rule 4.]

5. Where a party sues or is sued in a representative character, but it appears that he ought to have sued or been sued in his own right, the court may, at the instance of either party, on such terms as may be just, amend the proceedings accordingly ; and thereupon the action shall proceed, in all respects, as if the proper description of the party had been given in the summons. [Rule 5.]

ORDER  
XIV.

Where party wrongly sues or is sued in representative character.

6. Where a party sues or is sued in his own right, but it appears that he ought to have sued or been sued in a representative character, the court may, at the instance of either party, on such terms as may be just, amend the proceedings accordingly ; and thereupon the action shall proceed, in all respects, as if the proper description of the party has been given in the summons. [Rule 6.]

Where party ought to have sued or been sued in representative character.

7. Where the name or description of a plaintiff in the summons is insufficient or incorrect, it may be amended at the instance of either party by order of the court, on such terms as may be just ; and thereupon the action shall proceed, in all respects, as if the name or description had been originally such as it appears after the amendment has been made. [Rule 7.]

Amendment of name or description of plaintiff.

8. Where the name or description of a defendant in the summons is insufficient or incorrect, it may be amended at the instance of either party by order of the court, on such terms as may be just ; and thereupon the action shall proceed, in all respects, as if the name or description has been originally such as it appears after the amendment has been made ; but if no objection is taken to the name or description the action may proceed, and in the judgment, and all subsequent proceedings founded thereon, the defendant may be named and described in the same manner. [Rule 8.]

Amendment of name or description of defendant.

9. Where two or more persons are made defendants, and some of them have not been served, the names of the defendants who have not been served may, at the instance of either party, be struck out by order of the court, on such terms as may be just ; and thereupon the action shall proceed, in all respects, as if the parties whose names have not been struck out had alone been made defendants ; or the action may be adjourned for service upon any defendant not served. [Rule 10.]

Where all defendants have not been served.

ORDER  
XIV.

Applica-  
tion to add  
or strike  
out parties.

Notice to  
an added  
or substi-  
tuted  
defendant.

Forms 94,  
95.

10. Any application under any of the rules of this Order may be made before the trial to the court, or at the trial to the judge. [Rule 11.]

11. Where a defendant is added or substituted, except where a defendant is substituted under Rule 4 of this Order, an order shall be drawn up; and such order shall be served on the defendant, together with a copy of the summons, and a notice according to the form in the Appendix as to the day upon which he is to attend at the court, according to the rules as to service of ordinary summonses. [Rule 12.]

Amend-  
ment of  
particulars  
and notice  
of defence.

12. A plaintiff may file and deliver amended particulars of demand, and a defendant, whether by original action, counter-claim, or otherwise, may file and deliver an amended notice or particulars of any special defence set up or intended to be set up by him under Order X., Rule 10, at any time before the return day, without obtaining any order for the purpose; but the judge at the trial, if satisfied that the opposite party has not had a reasonable opportunity of preparing his case to meet any new matter introduced by such amendment, or for any sufficient cause, may disallow the amendment, or may adjourn the trial, and may make such order as to costs as he may think fit. [Rule 13.]

Abandon-  
ment of  
part of  
claim;  
amend-  
ment of  
parti-  
culars;  
costs.

13. The plaintiff may at any time before an action or matter is called on for trial, or in opening his case when called on, abandon any part of his claim, and such abandonment shall be entered on the particulars (if any), and in the minute book. Provided, that if the defendant succeeds the court may allow him costs on the scale which would have been applicable to the amount originally claimed; and in any case the court may allow the defendant any costs properly incurred by him in respect of that part of the plaintiff's claim which is abandoned. [Rule 13a, April, 1895.]

Powers of  
registrar as  
to amend-  
ment when  
acting under  
51 & 52  
Vict. c. 43.  
ss. 90, 92.

14. The registrar when acting under the provisions of sections ninety and ninety-two of the Act shall have the same power as the judge has of amending the proceedings in any action or matter. [Rule 14.]



## ORDER XV.

ORDER XV.

## APPLICATION FOR DIRECTIONS.

1. In any action or matter any party may at any time apply to the court for a postponement of the trial (if the day of trial has been fixed) and for general directions with respect to the following matters and proceedings, viz., particulars of claim or counter-claim, special defence, payment into court, discovery (including interrogatories), examination of witnesses before the trial, mode of trial, and any other matter or proceeding in the action or matter previous to trial; and the court, if satisfied that from the nature of the action or matter the directions asked for, or some of them, are necessary, may make an order giving such directions as to all or any of such matters or proceedings as may be just, whether applied for or not, and may if necessary postpone the trial. The order shall be according to the form in the Appendix, with such variations as circumstances may require. [Rule 1.]

Any party  
may apply  
for direc-  
tions.

Form 100.

2. An application under the last preceding rule shall be made upon giving at least three clear days notice in writing to every party to the action or matter who may be affected thereby; such notice shall be according to the form in the Appendix, with such variations as circumstances may require, and shall include, so far as is practicable, all the above-mentioned matters and proceedings, or as many thereof as, having regard to the nature of the action or matter, can conveniently be dealt with by the order of the court. [Rule 2.]

Notice of  
applica-  
tion.

Form 99.

3. Upon the hearing of the application any party who has been served with notice thereof may apply for any order or directions as to any of the above-mentioned matters or proceedings which he may desire; and thereupon the court may either make such order and give such directions respecting the same as may be just, or may adjourn the consideration of the same, and direct any necessary notice to be given. [Rule 3.]

Applica-  
tion for  
directions  
by any  
party  
served with  
notice.

4. If upon any other application as to any of the above-mentioned matters or proceedings it appears to the court that the application

Costs of  
application  
for any  
matter which  
could have

**ORDER XV.** is one that could and ought to have been included in the general application for directions, such application shall be granted only at the costs of the party making the same. [Rule 4.]

been asked  
for in appli-  
cation for  
directions.

Setting  
down  
action for  
trial after  
order for  
directions.

5. If the trial is adjourned generally by the order giving directions, any party may apply, on giving at least three clear days notice in writing to the other party, to have the action or matter set down for trial ; or, by consent of all parties, the same may be set down at any time and for any court which the state of business, in the opinion of the registrar, may allow. [Rule 5.]

Notice of  
day of  
trial.

Form 101.

6. Whenever an action or matter is set down for trial under the last preceding rule, the registrar shall issue to the party applying to set the same down a notice according to the form in the Appendix, and as many sealed copies thereof as there are parties to be served ; and such party shall serve the same upon all other parties to the action or matter eight clear days at least before the day fixed for the trial, unless otherwise ordered. [Rule 6.]

## **ORDER XVI.**

## **ORDER XVI.**

### **DISCOVERY AND INSPECTION.**

Interro-  
gatories.

1. Any party to any action or matter may, without filing an affidavit, by leave of the court, deliver interrogatories in writing for the examination of any one or more of the opposite parties ; and such interrogatories when delivered shall have a note at the foot thereof, stating which of such interrogatories each of such parties is to answer : Provided that interrogatories which do not relate to any question in the action or matter shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness. [Rule 1.]

Order to  
be drawn  
by registrar  
and served.  
Form 102.

2. If leave is granted, an order shall be drawn up by the registrar and served by the applicant on the party against whom the order is made. Such order shall be according to the form in the Appendix, and shall specify the number of days within which the interrogatories are to be delivered by the applicant, and also the time within which the affidavit in answer is to be filed. [Rule 2.]

3. On an application for leave to deliver interrogatories the particular interrogatories proposed to be delivered shall be submitted to the court. In deciding upon such application, the court shall take into account any offer which may be made by the party sought to be interrogated, to deliver particulars, or to make admissions, or to produce documents relating to the subject in question, or any of them ; and shall also consider whether the application has been made too early in the proceedings in the action or matter, or too late to allow of the answers being used at the hearing ; and leave shall be given as to such only of the interrogatories submitted as the court considers necessary either for disposing fairly of the action or matter, or for saving costs. [Rule 3, altered ; R.S.C., Order XXXI., Rule 2.]

ORDER  
XVI.

Particular  
interroga-  
tories to be  
sub-  
mitted.  
Matters  
to be con-  
sidered.

4. In adjusting the costs of the action or matter inquiry shall, at the instance of any party, be made into the propriety of exhibiting interrogatories ; and if it is the opinion of the registrar on taxation, or of the judge, either with or without an application for inquiry, that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault. [Rule 4.]

Costs of  
improper  
interroga-  
tories.

5. Interrogatories shall be according to the form in the Appendix, with such variations as circumstances may require. [Rule 5.]

Interroga-  
tories, form  
of.  
Form 103.

6. If any party to an action or matter be a body corporate or a joint stock company, whether incorporated or not, or any other body of persons empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of such corporation, company, or body, and an order may be made accordingly. [Rule 6.]

Corpora-  
tions and  
joint stock  
companies.

7. Any objection to answer any one or more of several interrogatories, on the ground that it or they is or are scandalous or irrelevant, or not *bonâ fide* for the purpose of the action or matter, or that the matters inquired into are not sufficiently material at that stage, or on any other ground, may be taken in the affidavit in answer. [Rule 7.]

Objection  
to answer.

ORDER  
XVI.

Affidavit in  
answer.  
Form 104.

8. Interrogatories shall be answered by affidavit according to the form in the Appendix, with such variations as circumstances may require. Such affidavit shall be filed and a copy thereof delivered to the party interrogating within the time named in the order giving leave to interrogate. [Rule 8.]

Further  
answer.

9. If any person interrogated omits to answer, or answers insufficiently, the party interrogating, after giving to such person two clear days notice of the time and place at which he intends to apply, may apply to the court for an order requiring him to answer, or to answer further, as the case may be. And an order may be made requiring him to answer, or to answer further, either by affidavit or *vivâ voce* examination before the court, as the court may direct. [Rule 9.]

Form 105.

Discovery  
of docu-  
ments.

[Rule 10,  
altered ;  
R.S.C.,  
Order  
XXXI.,  
Rule 12.]

10. Any party to any action or matter may, without filing any affidavit, apply to the court for an order directing any other party to the action or matter to make discovery on oath of the documents which are or have been in his possession or power relating to any question therein. On the hearing of such application the court may either refuse or adjourn the same, if satisfied that such discovery is not necessary or not necessary at that stage of the action or matter, or make such order, either generally or limited to certain classes of documents, as the court may in its discretion think fit. Provided that discovery shall not be ordered when and so far as the court is of opinion that it is not necessary either for disposing fairly of the action or matter, or for saving costs. If an order is made it shall be drawn up by the registrar and served by the applicant on the party against whom the order is made. Such order shall be according to the form in the Appendix, and shall specify the time within which the affidavit in answer is to be filed.

Form 106.

Objection  
to discover  
docu-  
ments.

Form 107.

11. The affidavit to be made by a party against whom such order as is mentioned in the last preceding rule has been made shall specify which, if any, of the documents therein mentioned he objects to produce, and on what grounds, and it shall be according to the form in the Appendix, with such variations as circumstances may require. Such affidavit shall be filed and a copy thereof delivered to the party who obtains the order within the time named in the order. [Rule 11.]

12. The court may, at any time during the pendency of any action or matter, order the production upon oath, by any party thereto, of such of the documents in his possession or power relating to any question in such action or matter as the court may direct; and the court may deal with such documents, when produced, in such manner as may be just. [Rule 12.]

ORDER  
XVI.

Production  
of docu-  
ments.

Form 108.

13. Any party to an action or matter may at any time give notice in writing to any other party in whose particulars, notices, or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, and to permit him to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such action or matter, unless he satisfies the court that such document relates only to his own title, he being a defendant to the action or matter, or that he had some other cause or excuse which the court deems sufficient for not complying with such notice; in which case the court may allow the same to be put in evidence on such terms as to costs and otherwise as the court may think fit. [Rule 13.]

Inspection  
of docu-  
ments re-  
ferred to in  
particulars,  
notices, or  
affidavits.

Form 109.

14. Notice to any party to produce any documents under the last preceding rule shall be according to the form in the Appendix, with such variations as circumstances may require. [Rule 14.]

Notice  
under  
preceding  
rule.  
Form 109.

15. The party to whom such notice is given shall, within two days from the receipt of such notice, if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in Rule 11 of this Order, or if any of the documents referred to in such notice have not been set forth by him in any such affidavit, then within four days from the receipt of such notice, deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at the office of his solicitor, or in the case of bankers' books or other books of account, or books in constant use for the purposes of any trade or business, or in case the party is not acting by a solicitor, at their usual place of custody, and stating which (if any) of the documents he

Time  
within  
which in-  
spection  
to be given.

Place of  
inspection.

- ORDER  
XVI.  
—  
Form 110. objects to produce, and on what grounds. Such notice shall be according to the form in the Appendix, with such variations as circumstances may require. [Rule 15.]
- Order for inspection.  
Form 108. 16. (1.) If any party served with notice under Rule 13 of this Order omits to give such notice of a time for inspection, or objects to give inspection, or offers inspection elsewhere than is provided by Rule 15, the court may, on the application of the party desiring it, make an order for inspection at such place and in such manner as the court may think fit: Provided that the order shall not be made when and so far as the court is of opinion that it is not necessary either for disposing fairly of the action or matter, or for saving costs.
- (2.) Any application to inspect documents, except such as are referred to in the particulars, notices, or affidavits of the party against whom the application is made, or disclosed in his affidavit of documents, shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party. The court shall not make an order for inspection of such documents when and so far as the court is of opinion that it is not necessary either for disposing fairly of the action or matter, or for saving costs. [Rule 16, altered ; R.S.C., Order XXXI., Rule 18.]
- Inspection of court rolls. 17. In any pending action or matter an order upon the lord of a manor to allow limited inspection of the court rolls may be made on the application of a copyhold tenant supported by an affidavit that he has applied for inspection, and that the same has been refused. [Rule 17.]
- Actions against or by sheriff or high bailiff. 18. In an action against or by a sheriff or high bailiff, or other officer discharging the like functions, in respect of any matters connected with the execution of his office, the court may, on the application of either party, order that the affidavit to be made in answer either to interrogatories or to an order for discovery shall be made by the officer actually concerned. [Rule 18, altered.]
- Verified copies. 19. (1.) Where inspection of any business books is applied for, the court may, if it thinks fit, instead of ordering inspection of the

original books, order a copy of any entries therein to be furnished and verified by the affidavit of some person who has examined the copy with the original entries, and such affidavit shall state whether or not there are in the original book any and what erasures, interlineations, or alterations. Provided that, notwithstanding that such copy has been supplied, the court may order inspection of the book from which the copy was made.

ORDER  
XVI.

[New :  
R.S.C.  
Order  
XXXI.,  
Rule 19a.]

(2.) Where on an application for an order for inspection privilege is claimed for any document, the court may inspect the document for the purpose of deciding as to the validity of the claim of privilege.

(3.) The court may, on the application of any party to an action or matter at any time, and whether an affidavit of documents has or has not been already ordered or made, make an order requiring any other party to state by affidavit whether any specific documents, to be specified in the application, are or have at any time been in his possession or power; and if not then in his possession, when he parted with the same, and what has become thereof. Such application shall be made on affidavit stating that in the belief of the deponent the party against whom the application is made has or has at some time had in his possession or power the documents specified in the application, and that they relate to the matters in question in the action or matter, or to some of them.

Inquiry as  
to present  
or past  
possession  
of specified  
docu-  
ments.

[New ; R.S.C., Order XXXI., Rule 19A.]

20. If a party from whom discovery of any kind or inspection is sought objects to the same or any part thereof, the court may, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the action or matter, or that for any other reason it is desirable that any issue or question in dispute in the action or matter should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserve the question as to the discovery or inspection.

Premature  
discovery.

[New ; R.S.C., Order XXXI., Rule 20.]

21. If any party fails to comply with an order to answer interrogatories, or for discovery or inspection of documents, he shall be liable to attachment. [Order XVI., Rule 19.]

Non-  
compliance  
with order.

ORDER  
XVI.Security  
for costs.

22. In every action or matter the costs of discovery, by interrogatories or otherwise, shall, unless otherwise ordered by the court, be secured in the first instance as provided by Rule 23 of this Order, by the party seeking such discovery, and shall be allowed as part of his costs, where, and only where, such discovery appears to the judge at the trial, or, if there is no trial, to the registrar on taxation, to have been reasonably asked for. [Rule 20.]

Amount of  
security.

23. Any party seeking discovery by interrogatories shall, before delivery of interrogatories, pay into court the sum of 20s., and, if the number of folios exceeds five, the further sum of 2s. for every additional folio. Any party seeking discovery otherwise than by interrogatories shall, before making application for discovery, pay into court the sum of 20s. The party seeking discovery shall, with his interrogatories or order for discovery, serve a copy of the receipt for the said payment into court. The party from whom discovery is sought shall not be bound to answer or make discovery unless and until the said copy has been served. [Rule 21.]

Payment  
out of  
amount  
paid in as  
security.

24. Unless the court otherwise orders, the amount paid in under the last preceding rule in any action or matter shall after the action or matter has been finally disposed of be paid out to the party by whom the same was paid in, on his request, or to his solicitor on such party's written authority, except in the event of his being ordered to pay costs, in which case the amount in court shall be subject to a lien for the costs ordered to be paid to any other party. Provided, that if after the action or matter has been finally disposed of, by consent or otherwise, no taxation of costs is required, the registrar shall, by consent of the parties, or on being satisfied that the party by whom the amount was paid in is entitled thereto, pay out the same to such party, or to his solicitor on such written authority as aforesaid. [Rule 22, altered.]

Order to  
apply to  
infants.

25. This Order shall apply to infant plaintiffs and defendants and their next friends and guardians *ad litem*. [Rule 23, May, 1899.]



## ORDER XVII.

ORDER  
XVII.

## CHANGE OF PARTIES.

1. An action or matter shall not become abated by reason of the marriage, death, or bankruptcy of any of the parties, if the cause of action survives or continues, and shall not become defective by the assignment, creation, or devolution of any estate or title *pendente lite*; and whether the cause of action survives or not, there shall be no abatement by reason of the death of either party between the verdict or finding of the issues of fact and the judgment, but judgment may in such case be entered notwithstanding the death. [Rule 1.]

When  
action not  
to abate.

2. (1.) Where by reason of any event occurring after the commencement of any action or matter there shall be any assignment, creation, change, transmission, or devolution of the interest, estate, or title of any plaintiff in such action or matter before judgment, the person to or upon whom such interest, estate, or title has come or devolved may give notice thereof to the registrar according to the form in the Appendix, with his name and address, together with an affidavit of the truth of the facts stated in such notice. And thereupon the registrar may adjourn the hearing to a day to be named by him, and shall cause a copy of such notice to be served by post upon the defendant in the action or matter, and a further notice that unless upon the day named therein he appears and shows cause against the same, the person to or upon whom such interest, estate, or title has come or devolved will be substituted for or made a joint plaintiff with the plaintiff named in the original summons; and unless cause is so shown such person may be added or substituted as plaintiff accordingly. [Rule 2.]

Proceed-  
ings on  
change of  
plaintiff's  
title before  
judgment.

Form 115.

Form 117.

(2.) Where, by reason of one and the same event, any person becomes entitled to give notice under the last preceding paragraph in more actions or matters than one, such person may give one notice only in respect of all or any of such actions or matters, specifying in a schedule to such notice all the actions or matters in respect of which such notice is given; and in serving a copy of such notice on any defendant in any such action or matter, it shall be sufficient to set forth such part only of such notice as affects such defendant, without setting forth the rest of such notice. [Rule 2 (2), Nov. 1900.]

Provision  
for cases  
where  
change  
affects  
more  
actions  
than one.  
Form 116.

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XVII.

Proceedings on change of defendant's title.

3. (1.) Where by reason of any event occurring after the commencement of any action or matter there shall be any assignment, creation, change, transmission, or devolution of the liability, interest, estate, or title of any defendant in such action or matter before judgment, the plaintiff or the defendant or the person to or upon whom such liability, interest, estate, or title has come or devolved may in like manner give notice thereof to the registrar, in accordance with the last preceding rule, together with an affidavit of the truth of the facts stated in such notice ; and the registrar shall take proceedings thereon similar to those prescribed by the last preceding rule ; and a defendant may be substituted or added, as the case may be, in manner similar to that provided in such rule for the substitution or addition of a plaintiff. [Rule 3, altered.]

(2.) Where the notice mentioned in the last preceding paragraph is given by any person other than the person proposed to be substituted or added as a defendant, a copy of the summons in the action shall be annexed to the notice to be served on the person proposed to be substituted or added as a defendant, and such notice and summons shall be served on such person according to the rules as to service of ordinary summonses ten clear days at least before the day fixed for the hearing, and the hearing shall be adjourned for such time as may be necessary to enable such notice and summons to be so served. [New.]

Change or transmission of interest.

Form 118.

4. Where, in any case not provided for by the preceding rules of this Order, it becomes necessary or desirable, by reason of any event occurring after the commencement of any action or matter, and causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after the commencement of any action or matter, that any person not already a party should be made a party, or that any person already a party should be made a party in another capacity, an order that the proceedings shall be carried on between the continuing parties and such new party may be obtained, before or at the trial, on application to the court, upon an allegation of such change or transmission of interest or liability, or of such person interested having come into existence. [Rule 4.]

5. An order obtained as in the last preceding rule mentioned shall, unless the court otherwise directs, be served upon the continuing parties, and also upon each new party, unless the person making the application be himself the only new party, according to the rules as to service of ordinary summonses, ten clear days at least before any further proceedings are taken in the action or matter ; and in the case of a person who is not already a party, a copy of the summons or petition in the action or matter, and a notice according to the form in the Appendix shall be annexed to the order and served therewith. The order shall from the time of such service, subject nevertheless to the next following rule, be binding on the persons served therewith ; and every person served therewith who is not already a party to the action or matter shall be bound to appear in the same manner as if he had been served with a summons or petition. Such order for adjournment shall be made as shall be necessary to give effect to this rule. [Rule 5, altered.]

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XVII.

Service of  
order on  
change or  
transmis-  
sion of  
interest.

Form 119.

6. Where any person not already a party to the action or matter is served with such order as is mentioned in the two last preceding rules, such person may on or before the day fixed for proceeding with the action or matter apply to the court to discharge or vary such order. [Substituted for Rules 6, 7.]

Applica-  
tion to  
discharge  
or vary  
order by  
person  
not already  
a party.

7. When the plaintiff or defendant in an action or matter dies, and the cause of action survives, but the person entitled to proceed fails to proceed, the defendant (or the person against whom the action or matter may be continued) may apply to the court for an order directing the plaintiff (or the person entitled to proceed) to proceed within such time as may be ordered ; and in default of such proceeding the action or matter may be struck out, and the court may award costs to the defendant, or (as the case may be) to the person against whom the action or matter might have been continued, in the same manner as in other cases of striking out ; and in such case, if the plaintiff has died, execution may issue for such costs as provided by Order XXV., Rule 14. [Substituted for Rule 8 : R.S.C., Order XVII., Rule 8.]

Where  
person  
entitled to  
proceed on  
death of  
plaintiff or  
defendant  
fails to  
do so.

8. Where a plaintiff or a defendant is substituted or added under any of the rules of this Order, the minute book shall be

Alteration  
of records  
on change  
of parties.

ORDER  
XVII.

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altered, and all subsequent proceedings shall be carried on under the altered title. [Rule 9.]

Saving.  
51&52Vict.  
c. 43. s. 94.

9. This Order shall not apply to any case expressly provided for by section ninety-four of the Act. [Rule 10.]

ORDER  
XVIII.

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ORDER XVIII.

EVIDENCE.

Evidence  
to be taken  
orally.

1. Except where otherwise provided by these rules, the evidence of witnesses on the trial of any action or hearing of any matter shall be taken orally on oath ; and where by these rules evidence is required or permitted to be taken by affidavit, such evidence shall nevertheless be taken orally on oath if the court, on any application before or at the trial or hearing, so directs. [Order XVIII., Rule 3.]

Power to  
order  
particular  
facts to be  
proved by  
affidavit, or  
witnesses  
to be  
examined  
before  
examiner.

2. The judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the trial or hearing, on such conditions as he may think reasonable, or that any witness whose attendance in court ought for some sufficient cause to be dispensed with be examined by interrogatories or otherwise before an examiner ; provided that, where it appears to the judge that the other party *bonâ fide* desires the production of a witness for cross examination, and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit. [New : R.S.C. Order XXXVII., Rule 1.]

Summon-  
ses to  
witnesses,  
and  
service.

3. Summonses to witnesses, to be served either in the home or in any foreign district, may be issued without leave, and may, by leave of the court, be issued in blank and served by the party applying for the same or by his solicitor, or a solicitor acting as agent for such solicitor, or by some person in the permanent and exclusive employment of the party or such solicitor, but in any case only one name shall be inserted in any such summons. Such summonses shall be according to the forms in the Appendix. [Order XVIII., Rule 1 ; Order LIIb., Rule 7, April, 1895.]

Forms 123,  
124.

4. It shall be sufficient if a summons to a witness is served within a reasonable time ; and such summons may be served by delivering the same to the witness personally, or to some person apparently not less than sixteen years old at the house or place of dwelling or place of business of the witness, or in the cases mentioned in Rules 18, 19, 21, and 22 of Order VII. in the manner prescribed by those rules for the service of an ordinary summons. Provided that for the purposes of this rule a place of business shall not be deemed to be the place of business of a witness unless he is the master or one of the masters thereof. [Rule 2, revised.]

ORDER  
XVIII.

Time and  
mode of  
service.

5. Where a witness served with a summons containing a direction for the production of any documents at the trial does not produce the same, the judge may, upon admission or proof that the summons was served within a reasonable time, and that such documents are in the possession or power or under the control of the party so served, and that they relate to the matter then pending before him, make an order for their production by the witness, and may deal with them, when produced, and with all costs occasioned by their non-production, as may be just : Provided that nothing herein shall prevent the receiving of secondary evidence where admissible. [Rule 4.]

When wit-  
ness does  
not pro-  
duce docu-  
ments,  
order for  
production  
may be  
made.

6. Where a party desires to give in evidence any document, he may, not less than five clear days before the trial, give notice to any other party in the action or matter who is competent to make admissions requiring him to inspect and admit such document ; and if such other party does not within three days after receiving such notice make such admission, any expense of proving the same at the trial shall be paid by him, whatever may be the result, unless the court otherwise orders ; and no costs of proving any document shall be allowed unless such notice has been given, except in cases where, in the opinion of the judge at the trial, or of the registrar on taxation, the omission to give such notice has been a saving of expense. [Rule 5.]

Admission  
of docu-  
ments.

Form 111.

7. Notices to admit or to produce documents shall be according to the forms in the Appendix, with such variations as circumstances may require.

Notice to  
admit or  
produce.  
Forms 111,  
112.

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An affidavit of the party, or his solicitor, or of some person in the permanent and exclusive employ of either of them, of the service of any notice to admit or to produce, and of the time when it was served, with a copy of the notice to admit or to produce, shall in all cases be sufficient evidence of the service of the notice, and of the time when it was served. [Rule 6.] .

Costs of  
notice to  
admit or  
produce.

8. If a notice to admit or produce comprises documents which are not necessary, the costs occasioned thereby shall be borne by the party giving such notice. [Rule 7.]

Documents  
produced  
from  
proper  
custody  
to be read  
without  
proof  
unless ob-  
jected to.

9. Where any documents which would, if duly proved, be admissible in evidence are produced to the court from proper custody they shall be read without further proof, if in the opinion of the court they appear genuine, and if no objection is taken thereto ; and if the admission of any documents so produced is objected to, the court may adjourn the hearing for the proof of the documents, and the party objecting shall pay the costs caused by such objection, in case the documents shall afterwards be proved, unless the court otherwise orders. [Rule 8.]

An un-  
stamped or  
insufficiently  
stamped  
instrument  
to be given  
in evidence  
only where  
receipt of  
registrars for  
unpaid duty  
and penalty  
is produced.

10. Where an instrument which may be legally stamped after its execution is produced as evidence, and the same is unstamped or insufficiently stamped, it shall not be received in evidence until the party desirous of giving the instrument in evidence produces to the court the receipt of the registrar for the amount of the unpaid duty, and the penalty payable by law on stamping the same, and the sum of one pound. [Rule 9.]

Where it is  
desired to  
use an  
affidavit,  
notice may  
be given.  
Costs of  
objection.

11. Where a party desires to use at the trial an affidavit by any particular witness, or an affidavit as to particular facts as to which no order has been made under Rule 2 of this Order, he may, not less than four clear days before the trial, give a notice, with a copy of such affidavit annexed, to the party against whom such affidavit is to be used ; and unless such last-mentioned party shall two clear days at least before the trial give notice to the other party that he objects to the use of such affidavit, he shall be taken to have consented to the use thereof, unless the judge otherwise orders ; and the judge

may make such order as he may think fit as to the costs of or incidental to any such objection. [Rule 10.]

ORDER  
XVIII.  
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12. All documentary evidence taken at the trial of any action or matter may be used in any subsequent proceedings in the same action or matter. [Rule 11.]

Documen-  
tary evi-  
dence  
taken at  
trial.

13. Evidence taken subsequently to the trial or hearing of any action or matter shall be taken as nearly as may be in the same manner as evidence taken at or with a view to a trial or hearing.

Evidence  
taken  
after trial.

[New ; R.S.C. Order XXXVII., Rule 21.]

14. The practice with reference to the examination, cross-examination, and re-examination of witnesses at a trial shall extend and be applicable to evidence taken in any action or matter at any stage.

Practice as  
to taking  
evidence at  
any stage  
of action  
or matter.

[New ; R.S.C. Order XXXVII., Rule 22.]

15. The practice of the court with respect to evidence at a trial, when applied to evidence to be taken before an officer of the court or other person in any action or matter after the trial or hearing, shall be subject to any special directions which may be given in any case.

Special  
directions  
as to  
taking  
evidence  
after trial.

[New ; R.S.C. Order XXXVII., Rule 23.]

16. Any party may, at the trial of an action or matter, use in evidence any one or more of the answers, or any part of an answer, of the opposite party to interrogatories, without putting in the others, or the whole of such answer : Provided that in such case the judge may look at the whole of the answers, and if he is of opinion that any others of them are so connected with those put in that the last mentioned answers ought not to be used without them, he may direct them to be put in. [Rule 12, altered ; R.S.C. Order XXXI., Rule 24.]

Use of  
answer to  
interroga-  
tories at  
trial.

17. Affidavits and depositions shall be read as the evidence of the person by whom they are used. [Rule 13.]

Affidavits,  
evidence of  
persons  
using  
them.

**ORDER  
XVIII.**

*Examinations.*

Examina-  
tion of  
witnesses  
before  
trial.

Form 132.

18. The court may in any action or matter, where it appears necessary for the purposes of justice, make an order for the examination upon oath before the court or any officer of the court, or any other person, and at any place in England or Wales, of any witness or person, and may empower any party to any such action or matter to give such deposition in evidence therein on such terms, if any, as the court may direct. [Rule 14.]

When  
registrar of  
foreign court  
may be  
appointed  
examiner.

19. Where any witness or person mentioned in the last preceding rule resides out of the district of the court, the judge may appoint the registrar of the court in the district of which such witness or person resides to take the examination. [Rule 15.]

Order for  
attendance  
of persons  
to be  
examined  
or produce  
documents.

Form 132.

Service of  
order.

20. The court may in any action or matter, at any stage of the proceedings, order the attendance of any person for the purpose of being examined or of producing to or before any examiner any writings or other documents which the court may think fit to be produced, and any person served with any such order shall be bound to attend accordingly: Provided that no person shall be compelled to produce under any such order any writing or other document which he could not be compelled to produce at the trial. Any such order may be served in accordance with the provisions of section one hundred and eleven of the Act, and Rules 3 and 4 of this Order, with respect to the service of summonses to witnesses. [Rule 16, altered.]

Disobe-  
dience to  
order for  
such at-  
tendance.

21. Any person wilfully disobeying any order requiring his attendance for the purpose of being examined or producing any document to or before an examiner shall be deemed guilty of contempt of Court, and may be dealt with accordingly. [Rule 17.]

Expenses  
of persons  
attending  
before  
examiner.

22. Any person required to attend before an examiner for the purpose of being examined or of producing any document shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in court. [Rule 18.]



23. Where any witness or person is ordered to be examined before any officer of a county court, or before any person appointed for the purpose, the person taking the examination shall be furnished by the party on whose application the order was made with a copy of the summons and particulars and of the defence (if any), and with a copy of the documents necessary to inform the person taking the examination of the questions at issue between the parties. [Rule 19.]

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Examiner to be furnished with certain documents.

24. The examination shall take place in the presence of the parties, or their counsel or solicitors, or the agents of such solicitors, and the witnesses shall be subject to cross-examination and re-examination. [Rule 20.]

Who entitled to be present on examination.

25. The depositions taken before an officer of a county court, or before any other person appointed to take the examination, shall be taken down in writing by or in the presence of the examiner, not ordinarily by question and answer, but so as to represent as nearly as may be the statements of the witness, and when completed shall be read over to the witness and signed by him in the presence of the parties, or such of them as may think fit to attend. If the witness refuses to sign the depositions, the examiner shall sign the same. The examiner may put down any particular question or answer if there appears to be any special reason for doing so, and may put any question to the witness as to the meaning of any answer, or as to any matter arising in the course of the examination. Any questions which are objected to shall be taken down by the examiner in the depositions, and he shall state his opinion thereon to the counsel, solicitors, or parties, and shall refer to such statement in the depositions, but he shall not have power to decide upon the materiality or relevancy of any question. [Rule 21.]

Depositions, how taken.

26. If any person duly summoned to attend for examination or to produce any document refuses to attend, or if, having attended, he refuses to be sworn or to answer any lawful question or to produce any document, a certificate of such refusal, signed by the examiner, shall be filed with the registrar, and thereupon the party requiring the attendance of the witness may apply to the judge for an order directing the witness to attend, or to be sworn, or to answer

Failure to comply with summons, or refusal to be sworn or answer.

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any question, or to produce such document, as the case may be.  
[Rule 22.]

Objection  
to answer.  
[Rule 23.]

27. If any witness objects to any question which may be put to him before an examiner, the question so put, and the objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the registrar to be filed, and the validity of the objection shall be decided by the judge. [Rule 23.]

Witness  
may be  
ordered to  
pay costs.

28. In any case under the two last preceding rules, the judge may order the witness to pay any costs occasioned by his refusal or objection. [Rule 24.]

Filing of  
deposi-  
tions.

29. When the examination of any witness before any examiner has been concluded, the original depositions, authenticated by the signature of the examiner, shall be transmitted by him to the registrar to be filed. [Rule 25.]

Special  
report by  
examiner.  
[Rule 26.]

30. The person taking the examination of a witness under these rules may, and if need be shall, make a special report to the court touching such examination and the conduct or absence of any witness or other person thereon; and the judge may direct such proceedings and make such order as upon the report he may think just. [Rule 26.]

When de-  
positions  
may be  
given in  
evidence.  
[Rule 27.]

31. Except where otherwise provided by this Order, or directed by the judge, no deposition shall be given in evidence at the trial of the action or matter without the consent of the party against whom the same may be offered, unless the judge is satisfied that the deponent is dead, or out of England and Wales, or unable from sickness or other infirmity to attend the trial, in any of which cases the depositions certified under the hand of the examiner shall be admissible in evidence, saving all just exceptions, without proof of the signature to such certificate. [Rule 27.]

Power to  
administer  
oaths.

32. Any officer of the court, or other person directed to take the examination of any witness or person, may administer oaths. [Rule 28.]

## ORDER XIX.

ORDER  
XIX.  

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## AFFIDAVITS.

1. All affidavits shall be expressed in the first person, and shall be drawn up in paragraphs and numbered. [Order XIX., Rule 1.]

Affidavits to be expressed in the first person.

2. All affidavits, other than those for which forms are given in the Appendix, shall state the deponent's occupation, quality, and place of residence, and also what facts or circumstances deposed to are within the deponent's own knowledge, and his means of knowledge, and what facts or circumstances deposed to are known to or believed by him by reason of information derived from other sources than his own knowledge, and what such sources are.

Sources of knowledge to be stated. [Rule 2a, Feb. 1892.]

The costs of every affidavit which unnecessarily sets forth matters of hearsay, or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same.

[New ; R.S.C. Order XXXVIII., Rule 3.]

3. Every affidavit shall be intituled in the action or matter in which it is sworn ; but in every case in which there are more than one plaintiff or defendant, it shall be sufficient to state the full name of the first plaintiff or defendant respectively, and that there are other plaintiffs or defendants, as the case may be ; and the costs occasioned by any unnecessary prolixity in any such title shall be disallowed by the registrar on taxation. [Rule 3].

Affidavits, how to be intituled.

4. It shall be stated in a note at the foot of every affidavit filed on whose behalf it is so filed, and such note shall be copied on every office or other copy furnished to a party. [Rule 4.]

Affidavits to show on whose behalf filed.

5. The costs of affidavits not in conformity with the preceding rules of this Order shall be disallowed on taxation, unless the court otherwise directs. [Rule 5.]

Costs of affidavits, when disallowed.

6. In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is taken at one time

Affidavits made by two or more deponents.

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by the same officer it shall be sufficient to state that it was sworn by both (or all) of the "above-named" deponents. [New: R.S.C., Order XXXVIII., Rule 9.]

Filing of  
affidavits.

7. Before any affidavit is used it shall be filed in the office of the registrar; but this rule shall not hinder a judge from making an order in an urgent case upon the undertaking of the applicant to file any affidavit sworn before the making of such order, provided that such order shall not be issued until such affidavit has been filed. [Rule 6.]

Affidavits  
not to be  
filed if  
sworn  
before  
party's  
solicitor.

8. An affidavit shall not be filed which has been sworn before a commissioner who was at the time of the swearing of the same the solicitor acting for the party on whose behalf such affidavit is to be used, or the agent, correspondent, partner, or clerk of such solicitor, or who is the party himself. [Rule 7.]

Erasure,  
blotting,  
interlinea-  
tion, &c. in  
affidavits.

9. No affidavit or other document shall be filed or used in any action or matter, unless the court otherwise orders, which is blotted so as to obliterate any word, or which is illegibly written, or so altered as to cause it to be illegible, or in the body or jurat of which there is any interlineation, alteration, or erasure, unless the person before whom the same is sworn has duly initialled such interlineation or alteration, and in the case of an erasure has re-written and signed in the margin of the affidavit or document the words or figures appearing to be written on the erasure, or which is so imperfect upon the face thereof by reason of having blanks thereon or otherwise that it cannot easily be read or understood. [Rule 8.]

Illiterate  
or blind  
deponent.

10. Where an affidavit is sworn by any person who appears to the officer taking the affidavit to be illiterate or blind, the officer shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made his signature in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate, unless the court is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent. [Rule 9.]

11. The court may receive any affidavit sworn for the purpose of being used in any action or matter, notwithstanding any defect by misdescription of parties or otherwise in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received.

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XIX.

Use of  
defective  
affidavit.

[New : R.S.C.. Order XXXVIII., Rule 14.]

12. Affidavits of service, when required, shall state when, where, how, and by whom service was effected.

Affidavits  
of service.

[New : R.S.C., Order LXVI., Rule 9.]

13. The consent of any person to act as a trustee or new trustee shall be sufficiently evidenced by a written consent signed by him and verified by the signature of his solicitor. The form in the Appendix hereto shall be used, with such variations as circumstances may require.

Verifica-  
tion of new  
trustee's  
consent to  
act.  
Form 332.

[New : R.S.C., Order XXXVIII., Rule 19A.]

14. Whenever a registrar rejects an affidavit or other document, he shall give notice, according to the form in the Appendix, by post or otherwise, to the party offering the same for filing, of such rejection and the reasons thereof; but no such notice shall be necessary if the party offering the same is present when the registrar rejects the affidavit. [Rule 10.]

Notice of  
rejection of  
imperfect  
affidavits  
or docu-  
ments.  
Form 133.

## ORDER XX.

ORDER  
XX.

### ARBITRATION.

1. At any time after an action is commenced, the judge may, with the consent of the parties, as well in cases within the ordinary jurisdiction of the court as in cases of agreement under section sixty-four of the Act, make an order for a reference under the provisions of section one hundred and four of the Act; and all the provisions in the last-mentioned section contained as to references shall apply to a reference proceeding under such an order: Provided

Arbitra-  
tion.  
51 & 52 Vict.  
c. 43. ss. 64,  
104.

[Order  
XX.]

Forms 134,  
134A.

ORDER  
XX.

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that the same fees shall be paid as would have been payable on entering judgment under a default summons, but where any reference is ordered to the registrar or any other officer of the court the same hearing fee shall be paid as if the action had been tried.

ORDER  
XXI.

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ORDER XXI.

ASSESSORS.

Registrar at  
request of  
judge to  
frame list  
of assessors  
for  
approval.  
51 & 52 Vict.  
c. 43. s. 103.

1. The registrar of each court shall from time to time, at the request of the judge, submit to him the names of as many persons as the judge may direct, whom, having regard to the nature of the ordinary business of the court, and to their fitness from ability and reputation, the registrar believes to be qualified to act as assessors under section one hundred and three of the Act ; and the judge shall from the names so submitted frame a list of persons to act as assessors for each court of which he is judge. [Order XXI., Rule 1.]

Consent of  
assessors  
to act.

2. The registrar shall apply to such persons as the judge may approve to know if they are willing to act as assessors and to attend any court which they may be summoned to attend a reasonable time beforehand. [Rule 2.]

List of  
assessors.  
Form 135.

3. When the judge has completed the list of assessors for any court the registrar shall cause a printed list of their names in alphabetical order to be hung up in the court and office. [Rule 3.]

Duration  
of power of  
assessors.

4. Every assessor named in the printed list shall continue to be an assessor until a new list of assessors has been framed and approved as aforesaid, or until he gives to the registrar notice in writing that he is unwilling to act as an assessor from and after a day to be named in such notice. [Rule 4.]

Assessor  
resigning  
to be  
removed  
from list.

5. Upon the receipt of notice of resignation from an assessor the registrar shall remove the name of such assessor from the list. [Rule 5.]

6. Every assessor shall receive for each day's attendance one guinea or two guineas, according as the subject matter of the action does or does not exceed twenty pounds in value, together with such sum, if any, for his expenses as the judge may order. [Rule 6.]

ORDER  
XXI.  
—  
Remuneration of assessors.

7. A party who desires assessors to be summoned to assist the judge shall six clear days at least before the return day file an application therefor according to the form in the Appendix, giving the names of the assessors he wishes to be summoned, and if he has obtained the consent of the other party to the assessors named he shall file such consent with his application. [Rule 7, altered.]

Applica-  
tion for  
assessors to  
act with  
judge.  
Form 136.

8. Upon receipt of an application for assessors the registrar shall forward a copy of the same to the judge, who, if he thinks fit, shall return the same with his approval, and thereupon the registrar shall forthwith summon the assessors named. If the judge does not think fit that assessors shall be summoned, notice thereof shall be given by the registrar to all parties, according to the form in the Appendix. [Rule 8.]

Assessors  
to be sum-  
moned if  
judge  
approves.  
Form 137.  
Form 141.

9. Where the party applying does not file with his application the consent of the other party to the appointment of the assessors proposed by him, the registrar shall, after obtaining the consent of the judge to the appointment of assessors as prescribed in the last preceding rule, forthwith cause to be served on the other party notice of the application according to the form in the Appendix; and the party so served shall, as soon as may be after receipt of the notice inform the registrar in writing whether or not he accepts the appointment of the assessors proposed in such notice or any of them, and shall give the names of such assessors as he is willing should be summoned. [Rule 9.]

Notice  
where  
opposite  
party has  
not con-  
sented to  
assessors  
proposed.  
Form 138.

10. Where the party served with the notice mentioned in the last preceding rule does not accept the proposed appointment, he shall forthwith after receipt of such notice inform the registrar in writing of his non-acceptance and of the reasons thereof, and the registrar shall thereupon fix a time and place for hearing such objection and selecting the assessors to be summoned. Such objection may be heard either

Proceed-  
ings where  
party  
served with  
notice does  
not accept  
proposed  
appoint-  
ment.

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on the return day of the summons, or before the judge acting under the powers conferred on him by section nine of the Act, or, if the judge so directs, before the registrar. Notice of the time and place at which the objection will be heard shall be given to all parties interested. On the hearing such order shall be made as the judge or registrar shall think just, and any costs occasioned by the objection or consequent thereon may be ordered to be paid by the party objecting. When assessors are appointed they shall be summoned by the registrar. [Rule 10.]

Form 139.

Form 140

Summon-  
ing of  
assessors.Where  
assessors  
or any of  
them fail  
to attend.

11. If at the time and place appointed for the trial any of the assessors summoned do not attend, the judge may either proceed to try the action with the assistance of such of the assessors, if any, as do attend, or, if none attend, without assistance, or he may adjourn the trial. [Rule 11.]

Payment  
on applica-  
tion for  
assessors  
by party.

12. Every person applying for assessors shall at the time of applying pay to the registrar the sum of two guineas if the amount of the subject matter of the action does not exceed twenty pounds, and four guineas if it does exceed that amount; and such payments shall be considered as costs in the action, unless otherwise ordered by the judge. [Rule 12.]

Assessors'  
fees on  
adjourn-  
ment.

13. Where an action is adjourned, the plaintiff shall pay the assessors' fees for the day of adjournment forthwith after the order of adjournment is made by the court. [Rule 13.]

**ORDER  
XXII.**  

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**ORDER XXII.****TRIAL.**Notice of  
demand of  
jury.Forms 142,  
143, 144.

1. Notice of demand for a jury shall be given in writing to the registrar, according to the form in the Appendix, five clear days at least before the return day, and the registrar shall forthwith give notice thereof to the other party, according to the form in the Appendix; and the summonses to the intended jurors shall be delivered to the bailiff forthwith. [Order XXII., Rule 1.]



2. Where notice of a demand for a jury has not been given in due time, or if at the trial both parties desire to try by a jury, and no jury be then in court, the judge may, on such terms as he may think fit, adjourn the trial in order that notice for a jury may be given. [Rule 2.]

ORDER  
XXII.

Adjourn-  
ment in  
order to  
try by jury.

3. Interpleader matters and actions of replevin or ejectment or for the recovery of possession, or to enforce any right relating to land, or for the recovery of any damages in respect of any such right, may, at the instance of either party, be tried by a jury; and by order of the judge any other action or matter or any question of fact arising therein, which but for this rule could not be so tried, may be tried by a jury. [Rule 3.]

Actions  
and  
matters  
which may  
be tried by  
jury.

4. The number of jurymen summoned to attend at a court for the trial of actions shall be ten, unless the judge otherwise orders. [Rule 4.]

Number of  
jurymen  
to be  
summoned.

5. Where a jury has been summoned, but before the return day the action or matter is settled or withdrawn, it shall be the duty of the party at whose instance the jury was summoned to inform the registrar of the fact; and the registrar shall thereupon return the deposit, and shall, unless the attendance of the persons summoned as jurors is required in any other action or matter, forthwith send notice by post to such persons that their attendance will not be required; and where in like case the action or matter is adjourned before the return day, the registrar shall forthwith send notice by post to the persons summoned as jurors of the adjournment, and of the day on which their attendance will be required. [Rule 4a, June, 1896.]

Notice to  
jurors  
where  
action  
settled,  
with-  
drawn, or  
adjourned  
before  
return day.

6. If when an action is called on for trial the plaintiff does not appear, and the defendant appears, and does not admit the plaintiff's claim, the court may, in its discretion, award costs to the defendant in the same manner, and to the same amount, as to counsel, solicitor, witnesses, and other matters, as if the action had been tried, but no hearing fee shall be charged. [Rule 5.]

Where  
plaintiff  
does not  
appear.

Form 149.

7. Where a default summons has been issued and notice of defence has been given, and neither the plaintiff nor the defendant appears when the action is called on, the action shall be struck out; and where

Where  
neither  
party or  
one party

**ORDER XXII.**  
 -----  
 only appears on default summons.

notice of defence has been given, and the defendant appears and the plaintiff does not appear, the action shall be struck out, and costs may be ordered against the plaintiff as in the last preceding rule mentioned ; and where the plaintiff appears and the defendant does not appear, judgment may be entered for the plaintiff without further proof, the amount to be payable by instalments or otherwise as the court may think fit. [Rule 6.]

Judgment on counter-claim where plaintiff does not appear. 51 & 52 Vict. c. 43. s. 91.

8. If when an action is called on for trial the plaintiff does not appear, and the defendant has given notice of a counter-claim, he may prove such counter-claim so far as the burden of proof lies upon him, and have judgment accordingly : Provided that any judgment obtained under this rule may be set aside upon the application of the plaintiff in like manner as a judgment obtained under section ninety-one of the Act. [Rule 7.]

Restoring case struck out for non-appearance of plaintiff. 51 & 52 Vict. c. 43. ss. 88-90.

9. Where any action or matter has been struck out under section eighty-eight or section ninety of the Act or under Rule 7 of this Order, the court may order such action or matter to be restored to the list for hearing on the same day or any subsequent day, and may set aside any order awarding costs to the opposite party which may have been made under section eighty-nine of the Act or Rule 6 or Rule 7 of this Order, upon such terms as to payment of costs of the day, adjournment of the hearing, notice to the opposite party, and otherwise, as may be just. [Rule 7a, May, 1899.]

Subsequent action after non-suit or striking out. 51 & 52 Vict. c. 43. ss. 88, 93.

10. If after the judge has directed a nonsuit under section eighty-eight or section ninety-three of the Act, or after an action has been struck out, a subsequent action is brought for the same or substantially the same cause of action before payment of the costs (if any) allowed on such nonsuit or striking out, the judge may, if he thinks fit, order a stay of such subsequent action until such costs have been paid. [New.]

Action pending in another court for same cause.

11. Where at the trial it appears that an action for the same cause at the suit of the same plaintiff is pending in any other court of record, the court shall order the trial to stand adjourned to a certain day, and unless before such day the action in such other court has been discontinued, the action shall be struck out. [Rule 9.]

12. The judge may in all cases disallow any question put in cross-examination of any party or other witness which may appear to him to be vexatious, and not relevant to any matter proper to be inquired into in the action or matter.

[New ; R.S.C., Order XXXVI., Rule 38.]

ORDER  
XXII.

Disallow-  
ance of  
vexatious  
questions  
in cross-  
examina-  
tion.

13. At the trial the judge may try the whole matter of the action and give judgment thereon, or grant any relief, redress, or remedy, or may make any order or give any direction which he may consider necessary to enable final judgment to be given upon a day to which the trial may be adjourned, and may also make such order as to costs as he may think fit. [Rule 10.]

General ju-  
risdiction  
of judge on  
trial of  
action.

14. It shall not be obligatory on the judge in any action for the execution of any trust, or for the administration of the estate of any deceased person, to pronounce or make a judgment or order for the general execution of the trust or administration of the estate, if the questions between the parties can be properly determined without such judgment or order, but the judge may make such order as may be necessary for determining such questions without pronouncing or making such general judgment or order. [Substituted for Rule 11 ; see R.S.C. Order LV., Rule 10.]

Decision of  
questions  
at issue  
without  
general  
order for  
execution  
of trusts or  
adminis-  
tration.

15. Upon an application for administration or execution of trusts by a creditor or beneficiary under a will, intestacy, or deed of trust, where no accounts or insufficient accounts have been rendered, the judge may, in addition to the powers already existing—

Orders  
which may  
be made on  
applica-  
tions for  
adminis-  
tration or  
execution  
of trusts,  
where no  
accounts  
or insuffi-  
cient  
accounts  
have been  
rendered.

(a.) Order that the application shall stand over for a certain time, and that the executors, administrators, or trustees in the meantime shall render to the applicant a proper statement of their accounts, with an intimation that if this is not done they may be made to pay the costs of the proceedings :

(b.) When necessary, to prevent proceedings by other creditors, or by persons beneficially interested, make the usual judgment or order for administration, with a proviso that no proceedings are to be taken under such judgment or order without leave of the judge in person.

[New ; R.S.C., Order LV., Rule 10A.]

ORDER  
XXII.  
—  
Injunction, application for.

16. In any action or matter in which an injunction has been or might have been claimed, the plaintiff may, before or after judgment, apply for an injunction to restrain the defendant or respondent from the repetition or continuance of the wrongful act or breach of contract complained of, or from the commission of any wrongful act or breach of contract of a like kind relating to the same property or right, or arising out of the same contract; and the judge may, in addition to giving judgment for such damages and costs as the plaintiff may be entitled to, grant the injunction, either upon or without terms, as may be just.

An application under this rule may be made—

- (a.) before the trial or hearing, in which case it shall be made in accordance with Order XII., Rule 6 :
- (b.) at or immediately after the trial or hearing, in which case the order, if any, shall be included in the judgment : or
- (c.) subsequently to judgment, in which case it shall be made in accordance with Order XII., Rule 11, on notice supported by affidavit.

[Rule 12 ; last paragraph new.]

Inspection of property by judge or jury.

17. The judge may, in his discretion, inspect, or order the jury to inspect, any property or thing concerning which any question may arise in any action or matter. [Rule 13.]

Absent parties may be added on hearing.

18. Where at the trial it appears to the judge that there are claims, estates, titles, or rights, or any equitable duties or liabilities, which cannot be disposed of by reason of all the proper parties not being before the court, the judge may order such parties as may be necessary to be made plaintiffs or defendants, upon such terms as to adjournment, notices, and costs as he may think fit. Where a defendant is added, the provisions of Order XIV., Rule 11, shall apply. [Rule 14.]

Counter-claim where action stayed, discontinued, or dismissed.

19. If in any case in which the defendant sets up a counter-claim the action of the plaintiff is stayed, discontinued, or dismissed, the counter-claim may nevertheless be proceeded with. [Rule 15.]

20. In any case of counter-claim or otherwise, or where any incidental claim arises at the trial, if the judge thinks that such claim can be better disposed of by an independent action, he may order such claim to be excluded, whether any application for that purpose be made or not. [Rule 16.]

ORDER  
XXII.

Counter or other claim may be ordered to be tried by independent action.

21. If a person not originally a party to the action who has been served with a notice of counter-claim does not appear at the trial, the judge may proceed with the trial notwithstanding, and give such judgment or make such order as may be just against the person so served and not appearing, or may adjourn the trial and give such directions and make such order as to costs as he may think fit. [Rule 17.]

When a person brought in does not appear at the trial.

22. Where in any action a set-off or counter-claim is established as a defence against the plaintiff's claim, the court may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case. [Rule 18.]

Judgment may be given for balance found due to defendant.

Form 152.

23. Where any of the parties to an action are officers of the court, the judge, if he thinks fit, may direct the trial to take place at some convenient court of which he is not the judge. [Rule 19.]

Transfer of action by or against officer of court.

24. Where by the Act the leave of the judge is required for the exercise of any powers or jurisdiction by the registrar, such leave may be either general or special. [Rule 20.]

Leave to registrar to exercise jurisdiction.

25. Where a registrar is authorised by the judge to hear and determine disputed claims when the sum claimed or amount involved does not exceed two pounds, he shall, when any such case is called on before him, ask the parties whether they desire to have the case heard by him or by the judge. [Rule 21.]

Where registrar authorised to hear disputed claims.

ORDER XXIII.

JUDGMENTS AND ORDERS.

ORDER  
XXIII.

1. The registrar shall enter in the minute book a minute of all ordinary judgments and orders for the payment of any debt or

Entries to be made in minute book.

ORDER  
XXIII.

damages or costs. Where the party against whom an order is made is a married woman, a note thereof shall be made. [Order XXIII., Rule 1.]

Form of  
ordinary  
judgment.  
Form 151.  
Judgment  
against  
married  
woman.  
45 & 46  
Vict. c. 75.

2. An ordinary judgment for debt or damages shall be according to the form in the Appendix.

The words in brackets in such form from "and it is further ordered" to "notwithstanding such restriction," shall be added only when judgment is recovered against a married woman under section one, subsection two, of the Married Women's Property Act, 1882, and shall not be added where the judgment is one which could be recovered against her at common law independently of the said Act. [Rules 1 (1), 1b, April, 1899.]

Judgment  
for costs  
against  
married  
woman  
who is  
plaintiff.  
Form 151.

3. Where in any action or proceeding by a married woman judgment is given or an order made for payment by such married woman of any costs of the opposite party, there shall be added to such judgment or order words limiting execution thereon in the manner in which execution is limited on a judgment against a married woman who is a defendant; and also, unless the judge otherwise orders, words reserving liberty to the opposite party to apply under section two of the Married Women's Property Act, 1893, for payment of such costs out of any property of the married woman which is subject to a restraint on anticipation. [Rule 1a, April, 1895.]

56 & 57  
Vict. c. 63.  
s. 2.

Prepara-  
tion of  
special  
judgment.

4. Every special judgment or order in the nature of a decree shall be prepared by the registrar, and the draft thereof shall be delivered by him to the successful party, together with an appointment to settle the same. The successful party shall submit the draft to his opponent for approval, and give notice of the appointment to settle. In case of disapproval by either party the registrar shall finally settle the draft in the presence of such of the parties as attend. Either party dissatisfied with the judgment or order as so settled may apply to the judge on not less than four days notice to vary and finally settle the same, but, except by leave of the court, such notice shall not operate as a stay of proceedings. The judge on the hearing of such application may refuse to make any order if the application has not been made at the next sitting of the court available

after the judgment or order has been settled by the registrar. The judgment or order when finally settled shall be sealed with the seal of the court, and filed of record, and a minute of such filing, with the date thereof, shall be entered in the minute book. [Rule 2.]

ORDER  
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—

5. Except where otherwise provided by statute or by these rules, no order giving leave to take any proceeding and no interlocutory order need be drawn up or served unless the court otherwise orders. [Rule 3.]

Certain  
orders  
need not  
be drawn  
up or  
served.

6. When a party acts by a solicitor, service of any judgment or order in the nature of a decree, and of any interlocutory order, or any notice relating to any such order, when directed to be served, may be made by or upon such solicitor, as the case may be. [Rule 4.]

Service by  
or on  
solicitor.

7. Any judgment or order for the payment of money or costs or both, or any other order, shall, subject to any special order by the court, and subject to the provisions of these rules, be prepared by the registrar and delivered to the bailiff, who shall within twenty-four hours send the same, by post or otherwise, to the party on whom service has to be made: Provided that it shall not be necessary for the party in whose favour any such judgment or order has been made to prove, previously to his taking proceedings thereon, that it was posted or reached the opposite party. [Rule 5.]

Mode of  
service of  
judgments  
and orders.

8. Where judgment is entered up against a party served with a default summons no order need be drawn up or served unless the judgment is for payment by instalments, or unless the plaintiff has abandoned part of his claim under Order XIV., Rule 13. [Rule 6a, Feb. 1892, altered.]

When  
order on  
default  
summons  
need not  
be served.

9. Every judgment or order given or made in any action or matter requiring any person to do an act thereby ordered, other than the payment of money or costs, shall state the time, or the time after service of the judgment or order, within which the act is to be done, and a copy of the judgment or order shall be served personally upon the person required to obey the same, on which copy shall be indorsed a memorandum according to the form in the Appendix.

Time to be  
stated for  
doing any  
act ordered  
to be done.

Memoran-  
dum to be  
indorsed.  
Form 346.

[New ; R.S.C. Order XLI., Rule 5.]

ORDER  
XXIII.

Purposes  
for which  
certificate  
of judg-  
ment  
required,  
to be stated.  
Form 155.

Money  
payable  
under  
ordinary  
judgment,  
how  
payable.  
51 & 52  
Vict. c. 43.  
s. 105.

10. Any person requiring a certificate of any judgment or order shall state in writing whether such certificate is required for the purpose of taking proceedings thereon in any other court, or for the purpose of evidence only; and in such latter case the registrar shall state thereon the purpose for which it is required. [Rule 7.]

11. Money payable under an ordinary judgment shall be paid within fourteen days from the date of the judgment, unless the court at the time of giving judgment otherwise orders. Where judgment is given for payment by instalments, such instalments shall be payable at such periods as the order directs; and if no period is mentioned, the first shall become due on the twenty-eighth day from the day of making the order, and every successive instalment shall become due at a like period of twenty-eight days from the day of the last previous instalment becoming due; and such instalments shall be paid into court in accordance with section one hundred and five of the Act. [Rule 8a, Feb. 1892.]

Order for  
payment  
of money  
recovered,  
and of  
costs to be  
taxed.  
Form 151  
(2).

12. Where judgment is given or an order made for the recovery or payment of a sum of money exceeding twenty pounds and costs, such judgment or order may direct such sum of money to be paid forthwith or within fourteen clear days from the date of the judgment or order, and may direct the costs to be taxed and paid forthwith or within fourteen clear days after taxation. [Rule 8b, Nov. 1900.]

Notice of  
payment  
into court.  
Form 156.

13. The registrar shall give notice by post, according to the form in the Appendix, to the party in whose favour it is made, of every payment made into court, whether by instalments or otherwise, in pursuance of a judgment or order, where the payment exceeds ten shillings. [Rule 9a, Feb. 1892, altered.]

Fresh  
order for  
payment  
by instal-  
ments on  
application  
of plaintiff.  
Form 157.

14. (1.) Where there is an unsatisfied judgment or order the party entitled to enforce it may apply *ex parte* to the court in which the same was given or made to order that the amount due and unpaid be paid by instalments, or, if payable by instalments, by the like or smaller instalments; and the court may thereupon make an order accordingly.



(2.) An application under this rule may be made at any sitting of the court ; or it may be made at any other time by request in writing, giving the letter and number of and the names of the parties to the action or matter in which the judgment or order was given or made, and the instalments by which the applicant desires that the amount due and unpaid may be ordered to be paid. Such request shall be left at or sent by post to the office of the registrar, accompanied by the plaint note or the duplicate mentioned in Order VII., Rule 1, or where a defendant is entitled to enforce a judgment or order, by the summons issued in the action, or the duplicate mentioned in Order LIV., Rule 26, and a stamped and directed envelope ; and when the request has been dealt with the registrar shall return such note, summons, or duplicate, with a minute of the order made, in such envelope.

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[Rule 14,  
amended  
May 1899 :  
now  
revised.]

(3.) The registrar may, by leave of the judge, deal with any application under this rule out of court, and without requiring the attendance of the applicant ; but he may, and, where no payment has been made within six years before the date of the application, he shall, refer such application to the judge, who may make such order in the matter as he shall think right, and may require the attendance of the applicant.

(4.) An order made on an application under this rule shall be entered in the minute book, and prepared and served in accordance with Rule 7 of this Order, and shall have the same effect as a fresh order for payment by instalments made on the hearing of a judgment summons.

15. (1.) Where a judgment has been given or an order made for the payment of any sum not exceeding twenty pounds, exclusive of costs, by instalments or otherwise, and it appears to the satisfaction of the judge that the person liable under the judgment or order is unable to pay the sum ordered to be paid at the time or by the instalments ordered, he may, on the application of such person, made on notice served on the party entitled to enforce the judgment or order two days at least before the hearing of the application, order the amount due and unpaid under the judgment or order to be paid by instalments, or, if already payable by instalments, by the like or smaller instalments, and may from time to time vary such order.

Fresh  
order for  
payment of  
sum not  
exceeding  
20£. on ap-  
plication of  
defendant.  
Form 157

ORDER  
XXIII.

Fresh order for payment in one sum or by increased instalments on application of plaintiff.

Form 157.

(2.) In like manner, if it appears to the satisfaction of the judge that the person liable under any such judgment or order is able to pay the sum ordered to be paid either in one sum or by larger instalments than those ordered, he may, on the application of the person entitled to enforce the judgment or order, made on the like notice to the person liable thereunder, order the amount due and unpaid to be paid in one sum, or by larger instalments than those previously ordered, and may from time to time vary such order.

(3.) An order made on an application under this rule shall be entered in the minute book, and prepared and served in accordance with Rule 7 of this Order, and shall have the same effect as a fresh order for payment made on the hearing of a judgment summons. [New.]

Judgment in action of ejectment or for recovery of possession, or relating to land, where plaintiff's title existed when plaintiff entered but has since expired.  
Form 260.

16. Where in an action of ejectment, or for the recovery of possession of a tenement, or of damages in respect of any right relating to land, the title of the plaintiff shall appear to have existed, as alleged in the summons, at the time of the entry of the plaint, but to have expired before the return day, the plaintiff shall be entitled to judgment according to the fact that he was so entitled, and for his costs of the action, unless the judge otherwise orders. [Rule 10.]

Where order directs a deed to be prepared.

17. Where a judgment or order directs any deed to be prepared and executed, it shall state by which party the said deed shall be prepared, and to whom it shall be submitted for approval; and if the parties cannot agree upon the form thereof, the judge may, upon the application of either party, settle the same himself, or name a conveyancing counsel by whom the same shall be settled, subject to the final approval of the judge. [Rule 11.]

Sale of real property.

Forms 304, 306.

18. Subject to the provisions of these rules, where real property is ordered to be sold, the judgment or order shall direct who shall have the conduct of the sale, and by whom the conditions and contracts of sale, and the abstract of title, shall be prepared, and the registrar shall have all the powers of a Master of the Chancery Division of the High Court to settle such conditions and contracts, and to fix reserved biddings. And where any conditions or contracts are ordered to be settled by a conveyancing counsel, the order shall name the counsel to whom they are to be submitted. [Rule 12.]

19. Where any real estate is ordered to be sold, any party bound by the order and in possession of the estate, or in receipt of the rents and profits thereof, shall be compelled to deliver up such possession or receipt to the purchaser, or such other person as may be directed.

ORDER  
XXIII.

Delivery  
up of real  
estate  
ordered to  
be sold.

[New ; R.S.C. Order LI., Rule 1.]

20. Where a judgment or order is given or made directing any property to be sold, the same shall, unless otherwise ordered, be sold, with the approbation of the judge, to the best purchaser that can be got, and all proper parties shall join in the sale and conveyance as the judge shall direct.

Sale with  
approba-  
tion of  
judge.  
Forms 304,  
306.

[New ; R.S.C. Order LI., Rule 3.]

21. Affidavits for the purpose of enabling the court to fix reserved biddings shall state the value of the property by reference to an exhibit containing such value, so that the value may not be disclosed by the affidavit when filed.

Form of  
affidavit of  
value.

[New ; R.S.C. Order LI., Rule 4.]

22. In the case of sales under the direction of the court the particulars of sale shall be signed by and the result of the sale shall be certified under the hands of the auctioneer and the solicitor of the party having the conduct of the sale. It shall not be necessary to file any affidavit verifying the particulars or the result of the sale.

Certificate  
of result  
of sale in  
lieu of  
affidavit.

[New ; R.S.C. Order LI., Rule 6A.]

23. Where an order directs any personal property to be sold, the same shall be sold, under the superintendence of the high bailiff, by public auction, unless the court otherwise directs. [Rule 13.]

Sale of  
personal  
property.  
Form 305.

## ORDER XXIV.

ORDER  
XXIV.

### ACCOUNTS AND INQUIRIES.

1. Where a judgment or order directs that any account be taken or inquiry made, such account shall be taken and inquiry made by the registrar, and he shall for that purpose have all the powers of a

Accounts,  
how to be  
taken.

ORDER  
XXIV.

Master of the Chancery Division of the High Court ; and all parties shall have the same power of summoning witnesses, including as witnesses any parties in the action, and of examining them on such accounts or inquiries, and of compelling the production of documents, as they would have upon the trial of an action ; and all rules as to the summoning, swearing, and examining of witnesses, and the production of documents at the trial, shall be applicable (as far as may be) to such summoning, swearing, examining, and production on taking any such accounts, or prosecuting any such inquiries. [Rule 1.]

Registrar  
to appoint  
time and  
place for  
inquiries  
and taking  
accounts.  
Form 318.

2. Where the registrar is directed to make inquiries or to take accounts, he shall by summons, according to the form in the Appendix, returnable not less than seven days from the date of the order, addressed to all parties entitled to attend, direct such parties to attend at his office or at the court, for the purpose of proceeding with such inquiries or accounts. In all cases in which advertisements are ordered, the return day shall be not less than twenty-one days after the date of the order, and the registrar shall forthwith prepare and insert advertisements in conformity with such order, stating the time, place, and purpose of the proceedings, and shall insert the same fourteen days previous to the day appointed. [Rule 2.]

Hearing  
before  
registrar.

3. Upon the day so appointed, or at any adjourned sitting, the registrar shall sit at the time and place appointed, and shall hear all parties interested, their counsel or solicitors. [Rule 3.]

Stoppage  
of pro-  
ceedings  
where all  
necessary  
parties  
have not  
been  
served  
with notice  
of judg-  
ment or  
order.

4. If on the hearing of the summons to proceed it appears that all necessary parties are not parties to the action or have not been served with notice of the judgment or order, directions may be given for leaving the accounts in chambers, but the adjudication on creditors' claims and the accounts are not to be proceeded with, and no other proceeding is to be taken, except for the purpose of ascertaining the parties to be served, until all necessary parties have been served, and are bound, or service has been dispensed with.

[New ; R.S.C. Order LV., Rule 36.]

Classifying  
interests of  
parties.

5. Where at any time during the prosecution of the proceedings under a judgment or order it appears to the judge, with respect to the

whole or any portion of the proceedings, that the interests of the parties can be classified, he may require the parties constituting each or any class to be represented by the same solicitor, and may direct what parties may attend all or any part of the proceedings ; and where the parties constituting any class cannot agree upon the solicitor to represent them, the judge may nominate such solicitor for the purpose of the proceedings before him ; and where any one of the parties constituting such class declines to authorise the solicitor so nominated to act for him, and insists upon being represented by a different solicitor, such party shall personally pay the costs of his own solicitor of and relating to the proceedings with respect to which such nomination has been made, and all such further costs as shall be occasioned to any of the parties by his being represented by a different solicitor from the solicitor so nominated.

ORDER  
XXIV.

Costs of  
party  
appearing  
separately.

[New ; R.S.C. Order LV., Rule 40.]

6. Whenever, in any proceeding under a judgment or order, the same solicitor is employed for two or more parties, the judge may at his discretion require that any of the said parties shall appear separately in person or be represented by a distinct solicitor, and adjourn such proceedings until such requirement is complied with.

Judge may  
require  
distinct  
solicitor to  
represent  
parties.

[New ; R.S.C. Order LV., Rule 41.]

7. Where a judgment or order is given or made directing an account of debts, claims, or liabilities, or an inquiry for heirs, next of kin, or other unascertained persons, unless otherwise ordered, all persons who do not come in and prove their claims within the time which may be fixed for that purpose by advertisement shall be excluded from the benefit of the judgment or order.

Claimants  
not  
coming in  
to prove,  
&c.,  
excluded.

[New ; R.S.C. Order LV., Rule 44.]

8. Where an order directs accounts to be taken, any books of account in which the accounts required to be taken, or any of them, have been kept shall, unless the court otherwise directs, be taken as *primâ facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised. [Rule 4.]

Books of  
accounts  
to be *primâ  
facie* evi-  
dence.  
[Rule 4.]

**ORDER  
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Accounts  
to be  
verified by  
affidavit,  
numbered,  
and left at  
registrar's  
office.

9. Where any account is directed to be taken, the accounting party shall, unless the court otherwise directs, make out his account and verify the same by affidavit. The items on each side of the account shall be numbered consecutively, and the account shall be referred to by the affidavit as an exhibit and be left at the registrar's office.

[New ; R.S.C. Order XXXIII., Rule 4.]

Surcharge.

10. Any party seeking to charge any accounting party beyond what he has by his account admitted to have received shall give notice thereof to the accounting party, stating, so far as he is able, the amount sought to be charged and the particulars thereof in a short and succinct manner.

[New ; R.S.C. Order XXXIII., Rule 5.]

Inquiry as  
to out-  
standing  
personal  
estate.

11. Every judgment or order for a general account of the personal estate of a testator or intestate shall contain a direction for an inquiry what parts (if any) of such personal estate are outstanding or undisposed of, unless the court otherwise directs.

[New ; R.S.C. Order XXXIII., Rule 6.]

Accounts  
and  
inquiries  
to be  
numbered.  
Form 304.

12. Where by any judgment or order any accounts are directed to be taken or inquiries to be made, each such direction shall be numbered so that, as far as may be, each distinct account and inquiry may be designated by a number ; and such judgment or order shall be in the Form in the Appendix, with such variations as the circumstances of the case may require.

[New ; R.S.C. Order XXXIII., Rule 7.]

Advertise-  
ments for  
creditors in  
adminis-  
tration.

13. Every advertisement for creditors or other persons having any claim upon or interest in the distribution of any assets to be administered by the court, which shall be issued pursuant to any order, shall direct every such creditor or other person, within a time to be thereby limited, to send to the registrar his name and address, and the full particulars of his claim or interest, and a statement of his account, and the nature of the security (if any) held by him, and at the time of directing such advertisement a time shall be fixed for adjudicating on the claims. [Rule 5.]

14. No creditor or other person need make any affidavit, or attend in support of his claim, except to produce his security, unless he is served with a notice requiring him to do so, as herein-after provided. [Rule 6, altered.]

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Creditors  
need not  
prove  
unless  
required.

15. Every creditor shall produce or transmit to the registrar any security held by him, at such time as shall be specified in the advertisement for that purpose as being the time appointed for adjudicating on the claims; and every creditor shall, if required by notice in writing to be given by the registrar, produce or transmit to the registrar all other deeds and documents necessary to substantiate his claim before the registrar at his office at such time as shall be specified in such notice. [Rule 7.]

Creditors  
holding  
security to  
produce  
same.

16. Every person claiming as heir-at-law, devisee, next of kin, or legatee shall, if required by notice in writing to be given by the registrar, produce or transmit to the registrar any pedigree or proof mentioned in such notice within such time as shall be therein specified. [Rule 8.]

Pedigree,  
if required,  
to be  
produced.

17. In case any creditor or other neglects or refuses to comply with the two last preceding rules, he shall not be allowed any costs of proving his claim, unless the court otherwise directs. [Rule 9.]

Creditor,  
&c., refus-  
ing, to have  
no costs.

18. At the time appointed for adjudication upon the debts or claims, the registrar shall take the evidence of the executor, administrator, or other accounting party upon such debts or claims, and may thereupon, in his discretion, allow any of such debts or claims without further proof, and may direct such investigation of all or any of the debts or claims not allowed, and require such further particulars, information, or evidence relating thereto, as he may think fit, and may, if he thinks fit, require any creditor or other person to attend and prove his claim, or any part thereof; and the adjudication on such claims as are not then allowed may be adjourned to a time to be then fixed. [Rule 10.]

Adjudica-  
tion on  
debts or  
claims.

Form 319.

19. Notice of allowance shall be given by the registrar to every creditor or other person whose claim or any part thereof has been allowed, and notice shall also be given by him to every creditor or

Notice of  
allowance  
or non-  
allowance  
of claim,

**ORDER XXIV.**  
 Form 320  
 Form 319.

other person whose claim or any part thereof has not been allowed to attend and prove his claim, or such part thereof as is not allowed, by a time to be named in such notice, not being less than seven days after such notice, and also to attend at a time to be therein named, being the time to which the adjudication thereon has been adjourned; and in case any creditor or other person shall not comply with such notice, his claim, or such part thereof as aforesaid, may be disallowed. [Rule 11.]

Claim may be sent in before adjudication.

20. Any creditor or other person who has not previously sent in the particulars of his claim pursuant to advertisement may do so two days before any day to which the adjudication is adjourned. [Rule 12.]

Where claim sent in after time fixed.

21. If any claim is sent in after the time fixed by advertisement (except as in this Order provided in case of an adjournment), the registrar may, upon special application, entertain the same, upon such terms and conditions as to costs and otherwise as he may think fit. [Rule 13.]

Costs of creditor establishing debt.

22. A creditor who has come in and established his debt under any judgment or order shall be entitled to the costs of so establishing his debt, and the sum to be allowed for such costs shall be fixed by the court, and shall be added to the debt so established.

[See Order LI., Rule 13; R.S.C. Order LV., Rule 58.]

Just allowances.

23. In taking any account, all just allowances shall be made without any directions for that purpose in the order to take such account. [Rule 14.]

Computation of interest on debts.

24. Where a judgment or order is made directing an account of the debts of a deceased person, unless otherwise ordered, interest shall be computed on such debts as to such of them as carry interest after the rate they respectively carry, and as to all others after the rate of four per cent. per annum from the date of the judgment or order.

[Order LI., Rule 13; R.S.C. Order LV., Rule 62.]

Allowance of interest on debts

25. A creditor whose debt does not carry interest, who comes in and establishes the same under a judgment or order, shall be



entitled to interest upon his debt at the rate of four per cent. per annum from the date of the judgment or order, out of any assets which may remain after satisfying the costs of the action or matter, the debts established, and the interest on such debts as by law carry interest. ORDER  
XXIV.  
—  
not carry-  
ing in-  
terest.

[Order LI., Rule 13 ; R.S.C. Order LV., Rule 63.]

26. Where a judgment or order is made directing an account of legacies, interest shall be computed on such legacies after the rate of four per cent. per annum from the end of one year after the testator's death, unless otherwise ordered, or unless any other time of payment or rate of interest is directed by the will, and in that case according to the will. Interest on  
legacies.

[Order LI., Rule 14 ; R.S.C. Order LV., Rule 64.]

27. The result of the proceedings before the registrar under any judgment or order shall be stated in the shape of a certificate in writing, signed by the registrar, and presented to the judge. Registrar's  
certificate.  
Form 321.

[Rule 15 ; R.S.C. Order LV., Rule 65.]

28. The certificate of the registrar shall not, unless the circumstances of the case render it necessary, set out the judgment or order or any documents or evidence or reasons, but shall refer to the judgment or order, documents, and evidence, or particular paragraphs thereof, so that it may appear upon what the result stated in the certificate is founded. Reference  
to judg-  
ment, &c.

[New ; R.S.C. Order LV., Rule 66.]

29. Where an account is directed, the certificate shall state the result of such account, and not set the same out by way of schedule, but shall refer to the account verified by the affidavit filed, and shall specify by the numbers attached to the items in the account which, if any, of such items have been disallowed or varied, and shall state what additions, if any, have been made by way of surcharge or otherwise ; and where the account verified by the affidavit has been so altered that it is necessary to have a fair transcript of the account as altered, such transcript may be required to be made by the party Contents  
of certifi-  
cate in case  
of  
accounts.  
  
Transcript.

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Filing of  
accounts  
and  
transcripts.

prosecuting the judgment or order, and shall then be referred to by the certificate. The accounts and the transcripts (if any) referred to by certificates shall be retained by the registrar. No copy of any such account shall be required to be taken by any party.

[New ; R.S.C. Order LV., Rule 68.]

Taking  
opinion of  
judge.

30. Any party may, before the proceedings before the registrar are concluded, take the opinion of the judge upon any matter arising in the course of the proceedings.

[New ; R.S.C. Order LV., Rule 69.]

Notice that  
certificate  
may be  
inspected.  
Form 322.

31. The registrar shall prepare his certificate seven days before the day appointed for presenting the same, and shall give notice by post to all parties to the action or matter that the same lies in his office for the inspection of any parties interested therein or affected thereby ; and he shall deliver a copy thereof to any person requiring the same, upon payment of the costs of such copy. [Order XXIV., Rule 16.]

When  
certificate  
becomes  
binding.

32. Every certificate, with the accounts (if any) to be filed therewith, shall be binding on all the parties to the proceedings unless discharged or varied upon application to be made in accordance with the next following rule.

[New ; R.S.C. Order LV., Rule 70.]

Variation  
or confirm-  
ation of  
certificate.

33. Where any party interested in or affected by the registrar's certificate desires to have the same varied, he shall apply at the court on the day appointed for presenting the same, and the judge shall thereupon hear and determine such application, and shall confirm or vary the certificate, and make such further order thereupon, and on further consideration of the action or matter, as he may think fit. [Order XXIV., Rule 17, altered.]

Order on  
further  
considera-  
tion.  
Form 323.

Where no  
application  
to vary  
certificate.  
Form 323.

34. If no application is made to vary the certificate, it shall be taken as confirmed, unless the judge otherwise orders ; and the judge shall, on the day appointed for the presentation of the same, make such order on further consideration of the action or matter as he may think fit. [Rule 18, altered.]

Discharge  
or varia-  
tion of

35. The judge may, if the special circumstances of the case require it, upon an application for the purpose, direct a certificate to be

discharged or varied at any time after the same has become binding on the parties.

ORDER  
XXIV.

[New ; R.S.C. Order LV., Rule 71.]

certificate  
which has  
become  
binding.

36. Notes shall be kept of all proceedings before the registrar under any judgment or order, so that all such proceedings in each action or matter may appear consecutively and in chronological order, with a short statement of the questions or points decided or ruled at every hearing.

Notes of  
proceed-  
ings before  
registrar  
under  
judgment  
or order.

[New ; R.S.C. Order LV., Rule 73.]

37. Where the registrar, high bailiff, receiver, or any party has by any order been directed to do any act for doing which it may be found necessary to have further directions or an order of the court, the registrar shall apply to the judge for such directions or order, and upon such application the judge may give such directions or make such order as he may think fit, or may appoint a time to hear all parties upon the application so made by the registrar ; and if the judge makes such appointment for hearing, the same shall operate as a stay of proceedings in the action until the day so appointed, unless otherwise directed. [Rule 19.]

Applica-  
tion to  
judge for  
further  
directions

## ORDER XXV.

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### ENFORCEMENT OF JUDGMENTS AND ORDERS.

1. Every order for the payment of money may be enforced in the same manner as a judgment for debt or damages may be enforced under section one hundred and forty-six of the Act. [Order XXV., Rule 1.]

Enforce-  
ment of  
orders for  
payment of  
money.  
51 & 52  
Vict. c. 43.  
s. 146.

2. Every order of the court in any action or matter may be enforced against all persons bound thereby in the same manner as a judgment to the same effect.

Orders  
enforce-  
able like  
judgments.

[New ; R.S.C. Order XLII., Rule 24.]

**ORDER  
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Enforcing  
judgment  
or order  
against  
corpora-  
tion.

Costs of  
married  
women.

[Rule 2.]

Where  
difficulty  
arises in  
execution.

Date and  
duration of  
warrants of  
execution.

Applicant  
to produce  
plaint note  
or sum-  
mons, and  
furnish  
præcipe.

Where  
default  
made,  
execution  
may issue.

Amount  
for which  
it may  
issue.

Forms 163,  
164, 165.

51 & 52 Vict.  
c. 43. s. 149.

Separate  
executions  
for money

3. Any judgment or order against a corporation wilfully disobeyed may, by leave of the judge, be enforced by attachment against the directors or other officers thereof.

[New ; R.S.C. Order XLII., Rule 31.]

4. When a married woman sued only in her own name obtains a judgment or order on the ground of coverture, and is awarded costs, she may enforce payment of such costs in her own name.

5. In case of any judgment or order other than for the recovery or payment of money, if any difficulty arises in or about the execution or enforcement thereof, any party interested may apply to the court, and the court may make such order thereon for the attendance and examination of any party or otherwise as may be just. [Rule 3a, Feb. 1892.]

6. Warrants of execution against goods shall bear date on the day on which they are issued, and shall continue in force for twelve months from such date and no longer. [Rule 4.]

7. The registrar before issuing any warrant shall be entitled to require the person applying for the same to produce the plaint note or summons issued in the action, or a duplicate thereof, and to furnish a præcipe containing the number of the plaint, and the residence, or place of business, and description of the person against whose goods the warrant is to be issued. [Rule 5.]

8. Where a defendant has made default in payment of the whole amount awarded by the judgment or order, or where the judgment or order was for payment by instalments of an instalment thereof, a warrant of execution may issue against his goods without leave ; and such execution shall be for the whole amount of the judgment or order and costs then remaining unsatisfied, or in the case of an order for payment by instalments, for such portion thereof as the court shall order, either at the time of making the original order or at any subsequent time. [Rule 7a, May, 1899.]

9. Where judgment is given or an order made for the recovery or payment of a sum of money exceeding twenty pounds and costs, and

directs such sum of money to be paid forthwith or within fourteen clear days from the date of the judgment or order, and the costs to be taxed and paid forthwith or within fourteen clear days after taxation, a warrant of execution may, in default of payment, issue for the recovery of the sum and costs after the latter have been taxed ; or, if default is made in payment of the sum of money before the costs have been taxed, separate warrants may issue for the recovery of such sum on default in payment thereof, and for the recovery of the costs after the same have been taxed and default has been made in payment thereof ; but a second warrant shall only be for costs, and shall not be issued before the expiration of eight days from the issue of the first warrant. [Rule 7a, Nov. 1900.]

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recovered  
and for  
costs.

10. No warrant against goods, except by leave of the court, shall issue on a judgment or order unless some payment into court has been made thereon by the judgment debtor within twenty-four months previously, but no notice to the debtor before applying for such leave shall be necessary ; and such leave shall be expressed on the warrant under the seal of the court. [Rule 6.]

Where no  
payment  
on judg-  
ment for  
two years  
leave to  
issue exe-  
cution  
must be  
obtained.

11. Where a judgment or order is against a firm, execution may issue in manner following :

Execution  
on  
judgment  
against a  
firm.

(a.) Against any property of the partnership :

(b.) Against any person who has admitted before the court in the proceedings in which the judgment or order was obtained that he was a partner at the time of the accruing of the cause of action, or who has been adjudged to be liable as a partner :

(c.) Against any person who was individually served with the summons as a partner or a person sought to be made liable, and who failed to appear at the trial.

If the party who has obtained the judgment or order claims to be entitled to issue execution against any other person as a member of the firm, he may, after giving to such person two clear days notice of his intention, apply to the court for leave so to do ; and the court may give such leave if the liability is not disputed, or, if such liability is disputed, may order that the liability of such

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—

person be tried and determined in an action to be commenced by plaint and summons in the ordinary way. Except as against any property of the partnership, a judgment against a firm shall not render liable, release, or otherwise affect any member thereof who was out of England and Wales when the summons was issued, unless he has been made a party to the action under Order VII., Rule 41, or has been served within England or Wales after the summons in the action was issued. [Rule 8, altered ; see R.S.C. Order XI.VIII.A, Rule 8.]

Applica-  
tion for  
charging  
order on  
interest of  
partner.  
53 & 54  
Vict. c. 39.  
s. 23.

12. An application by a separate judgment creditor of a partner for an order charging his interest in the partnership property and profits under section twenty-three of the Partnership Act, 1890, and for such other orders as are thereby authorised to be made, shall be made to the court on notice. Such notice shall be served in the case of a partnership other than a cost book company on the judgment debtor and on his partners, or such of them as are in England or Wales, or in the case of a cost book company on the judgment debtor and the purser of the company ; and such service shall be good service on all the partners or on the cost book company, as the case may be, and all orders made on such application shall be similarly served. [Rule 8a, Feb., 1892.]

Applica-  
tions by  
partners  
under 53 &  
54 Vict.  
c. 39. s. 23.

13. An application by a partner of the judgment debtor under section twenty-three of the Partnership Act, 1890, shall be made to the court on notice. Such notice shall be served in the case of a partnership other than a cost book company on the judgment creditor and on the judgment debtor, and on such of the other partners as do not concur in the application and are in England or Wales, or in the case of a cost book company on the judgment creditor and on the judgment debtor, and on the purser of the company ; and such service shall be good service on all the partners or on the cost book company, as the case may be, and all orders made on such application shall be similarly served. [Rule 8b, Feb. 1892.]

Applica-  
tion for  
leave to  
issue  
process on  
change of

14. In the following cases, viz. :—

- (1.) Where any change has taken place after judgment, by death, assignment, or otherwise, in the parties entitled to take

proceedings to enforce a judgment or order, or in the parties liable to such proceedings ;

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(2.) Where a husband is entitled or liable to proceedings upon a judgment or order for or against a wife ;

parties  
after judgment, &c.  
Forms 158,  
160.

(3.) Where a party is entitled to execution against any of the shareholders of a joint stock company upon a judgment recorded against such company, or against a public officer or other person representing such company ;

the party alleging himself to be entitled to enforce the judgment or order may apply on affidavit to the court for leave to issue the necessary process accordingly. And the court may, if satisfied that the party so applying is entitled to issue such process, make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties be tried and determined in an action to be commenced by plaint and summons in the ordinary way. And in either case the court may impose such terms as to costs or otherwise as may be just. [Rule 9a, Feb., 1892.]

Order  
thereon.

15. Any order made under the last preceding rule *ex parte* shall be drawn up and served by post or otherwise on the persons to be affected thereby, and proceedings thereon shall not issue until six clear days at least after the service of the order. [Rule 10a, Feb., 1892.]

Service  
of order.

16. Where, in any case mentioned in the two last preceding rules, a party alleges himself to be entitled by reason of one and the same change or other cause to enforce the judgments or orders in more actions or matters than one, or to enforce a judgment or order against more persons than one, he may make one application only for leave to issue the necessary process in all or any of such actions or matters, or against all or any of such persons, specifying in a schedule to such application all the actions or matters in respect of which such application is made, or all the persons in respect of whom such application is made ; and one order only may be made on such application in respect of all or any of such actions or matters, or all or any of such persons ; and in serving notice of any such order on any person affected thereby, it shall be sufficient to set forth such part

Joinder of  
several  
actions or  
persons in  
one appli-  
cation, and  
notice of  
order  
thereon.  
Forms 159,  
161.

**ORDER  
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only of such order as affects such person, without setting forth the rest of such order. [Rule 10*b*, Nov., 1900.]

Indorse-  
ment on  
warrant of  
execution.  
Form 163.  
Notice to  
be left with  
debtor.  
Form 162.

17. The registrar shall, on issuing a warrant of execution against the goods, insert in or indorse on such warrant the amount to be levied, and the fees for the execution of the warrant, distinguishing the amount adjudged to be paid and remaining due, and the amount of the fee for issuing the warrant, and the fees for the execution thereof, and shall prepare and deliver to the bailiff with the warrant a notice according to the form in the Appendix ; and the bailiff, upon levying, shall deliver such notice to the party against whom the execution has issued, or leave the same at the place where the execution is levied. [Rule 11.]

Concurrent  
warrants.

18. Warrants of execution against goods may be issued concurrently into one or more districts, provided that the costs of more than one warrant shall not be allowed against the execution debtor unless by order of the court. [Rule 12.]

Costs of  
warrants.

19. Except as otherwise provided by these rules, the costs of warrants, whether executed or unexecuted or unproductive, shall be allowed against the execution debtor, unless the judge otherwise directs. [Rule 12 *bb*, April, 1895.]

Possession  
fees.

20. No possession fee shall be payable where an execution is paid out at the time of the levy ; but if the bailiff necessarily remains in possession for more than half an hour, and the execution is paid out on the day of levy, the possession fee for that day shall be charged. [Rule 12*c*, Feb. 1892.]

Appraise-  
ment.

21. No appraisement shall be made until the fifth day of the bailiff's holding possession of the goods under an execution, unless the goods are of a perishable nature, or are sold at the request of the party before the expiration of four days, or are removed. [Rule 12*d*, Feb. 1892.]

Inventory  
and notice  
of sale of  
goods  
removed  
under  
execution.

22. Where goods taken in execution are removed, the high bailiff shall give to the execution debtor a sufficient inventory of the goods so removed, and shall also give to the execution debtor notice in writing, signed by the high bailiff, of the time when and place where such goods will be sold. Such inventory and notice shall be given



to the execution debtor personally, or sent to him by post to his place of residence, if known, or if such residence is not known, they shall be left at or sent by post addressed to the execution debtor at the place from which the goods are removed. The inventory shall be given or sent at the time of or immediately after the removal of the goods; and the notice shall be given or sent at least twenty-four hours before the time fixed for the sale. [Rule 12c (1), May, 1899.]

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—

23. Where goods are sold in execution the high bailiff shall, on the request of the execution debtor, furnish him with a detailed account in writing of the sale, and of the application of the proceeds thereof. [Rule 12e, May, 1899.]

Account of  
sale under  
execution.

24. (1.) An application under section one hundred and forty-five of the Bankruptcy Act, 1883, and section twelve of the Bankruptcy Act, 1890, for an order that a sale under an execution may be made otherwise than by public auction, shall be made to the court on notice in writing according to the form in the Appendix, stating shortly the grounds of the application.

Applica-  
tion for  
private  
sale.  
46 & 47  
Vict. c. 52.  
s. 145.  
53 & 54  
Vict. c. 71.  
s. 12.  
Form 170.

(2.) The high bailiff shall, on the demand of any applicant desirous of making such application as aforesaid, deliver to him a written list of the names and addresses of every person at whose instance any warrant or writ of execution against the goods of the debtor has been lodged with him.

Highbailiff  
to deliver  
list of  
executions  
to appli-  
cant.

(3.) The notice shall be served four clear days at least before the day appointed for the hearing of the application on the high bailiff and on every person named in such list as aforesaid other than the applicant.

Service of  
notice of  
applica-  
tion.

(4.) On the hearing of the application the applicant shall produce such list as aforesaid to the court.

High  
bailiff's  
list to be  
produced.

(5.) Every person upon whom the notice is served may attend the hearing and be heard in opposition to or in support of the application, and the court may on the hearing direct that all or any part of the costs may be borne by any of the persons attending or otherwise as may be just. [Rule 12a, Feb. 1892.]

Persons  
who may  
appear  
on applica-  
tion.

**ORDER  
XXV.***Judgment Summons.*

Judgment  
summons  
to be  
served  
personally.  
32 & 33  
Vict. c. 62.

25. (1.) No order of commitment under the Debtors Act, 1869, shall be made unless a summons to appear and be examined on oath, hereinafter called a judgment summons, has been personally served upon the judgment debtor. [Order XXV., Rule 13.]

Præcipe for  
summons.  
Form 176.

(2.) A person requiring a judgment summons to be issued shall file a præcipe according to the form in the Appendix. [New.]

Summons  
where two  
or more de-  
fendants.

(3.) Where a judgment has been given or an order made against two or more persons, the person entitled to enforce the judgment or order may require a judgment summons to be issued against all or any one or more of the persons liable under the judgment or order. [New.]

Issue of  
summons  
against  
debtor in  
the district.

26. (1.) A judgment summons may be issued without leave by the court within the district of which the debtor against whom the summons is issued resides or carries on business or is employed. [Order XXV., Rule 13.]

Applica-  
tion for  
leave for  
judgment  
summons  
to issue  
out of the  
district.  
Form 177.

(2.) Where a debtor does not reside and neither carries on business nor is employed within the district of the court in which the judgment or order was obtained, a judgment summons shall not be issued from that court without the leave of the judge. The application for leave shall be made upon affidavit according to the form in the Appendix, and leave shall not be granted unless the judge is satisfied that the evidence afforded by such affidavit, if uncontradicted, would justify the making of an order of commitment against the debtor. If leave is granted, a copy of the affidavit shall be lodged with the registrar and annexed to the judgment summons and served therewith. The districts of the metropolitan courts shall be deemed to be one district, so far as relates to the issuing of judgment summonses. [Rule 14a, Feb. 1892.]

No leave  
required if  
travelling  
expenses  
deposited  
or under-  
taking  
given to  
pay or  
tender  
same.

(3.) Provided that no affidavit or leave under the preceding paragraph of this rule shall be required if the person requiring a judgment summons to be issued either

(a.) When such summons is to be served by a bailiff, deposits with the registrar, to be paid or tendered to the judgment debtor with the summons, or

(b.) When such summons is to be served otherwise than by a bailiff, gives an undertaking in writing to pay or tender to the judgment debtor with the summons,

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XXV.  
—

a sum reasonably sufficient to cover the travelling expenses of the debtor to attend the court, the amount to be fixed by the registrar, and not to exceed the scale of allowance for travelling expenses of a witness prescribed by these rules. [New.]

27. Where a judgment or order is against a firm, or against a person carrying on business in any name other than his own in such other name, and the person entitled to enforce the judgment or order desires to do so by judgment summons against any person whom he alleges to be liable under the judgment or order as a partner in or the sole member of the firm, or as the person carrying on business in such other name as aforesaid, he shall file an affidavit, together with a copy thereof, according to one of the forms in the Appendix, and thereupon a judgment summons may issue according to the form in the Appendix, directed to the person alleged to be liable as aforesaid, and there shall be annexed to such judgment summons, and served therewith, a copy of the said affidavit sealed with the seal of the court.

Judgment  
summons  
on  
judgment  
against a  
firm, &c.  
Forms 182,  
183.  
Form 184.

Provided that where such person neither resides nor carries on business within the district of the court the summons shall not be issued unless the leave of the judge is obtained in accordance with the last preceding rule, or the proviso to that rule is complied with.

If such person does not appear on the return day of the judgment summons, he shall be deemed to admit his liability as a partner in or the sole member of the firm, or as the person carrying on business in such other name as aforesaid, to pay the amount due and payable under the judgment or order. But if such person appears and denies his liability, the judge may decide the question on the evidence then before him, or may order the question to be tried and determined in an action to be commenced by plaint and summons in the ordinary way. [Order XXV., Rule 14*b*, July, 1892, revised.]

28. A judgment summons, not being a successive summons, shall not issue after the expiration of four months from the date on which the last payment into court, if any, under the judgment or order

No judg-  
ment sum-  
mons to be  
issued after

ORDER  
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a certain  
time from  
judgment,  
&c., unless  
an affidavit  
in proof of  
means is  
filed.

[Rule 15.]

has been made, or if no payment into court has been made, then from the date upon which default was made, unless the delay has been occasioned by an attempt to levy an execution upon the debtor's goods, or unless an affidavit is filed, stating the debtor's place of residence and place of business or employment, his profession or trade or employment (if any), and any facts known to the deponent, showing the means which the debtor has or since the date of the judgment or order has had to pay or to have paid the debt or instalments due under the judgment or order, sufficient to satisfy the judge that the debtor has the means of obeying or could have obeyed the judgment or order of the court; and if the facts stated in the affidavit do not satisfy the registrar that the debtor might be thereon committed, the registrar shall refuse to issue the summons, and refer the applicant to the judge for his directions, and the judge may make such order in the matter as he may think fit. Provided that no affidavit under this rule shall be required if the person requiring a judgment summons to be issued complies with the proviso to Rule 26 of this Order. [Rule 15; proviso new.]

Where  
judgment  
summons  
applied for  
at a court  
in which  
judgment  
was not  
obtained.  
Form 155.

29. Where a judgment creditor desires to apply for a judgment summons to a court other than the court in which the judgment or order was obtained, he shall obtain from the registrar of the court in which the judgment or order was obtained a certified copy of the judgment or order in the action, according to the form in the Appendix, and file the same with his application. Such copy shall state the date on which the last payment into court, if any, under such judgment or order was made, or if no payment into court has been made, the date upon which default was made; and the issue of a judgment summons under this rule shall be subject to the provisions of Rule 27 or Rule 28 of this Order, as the case may be. [Rule 16; added to, May, 1899.]

Where  
judgment  
summons  
required  
on  
judgment  
of court  
other than  
a county  
court.

30. Where a party desires to enforce by commitment in any court a judgment or order of any competent court other than a county court, he shall obtain from such other court an office copy of the judgment or order he desires so to enforce, and shall file such office copy, together with an affidavit of the sum then due thereon, with the registrar of the court of the district in which the

party against whom the same is to be enforced resides or carries on business or is employed, and the registrar shall thereupon issue a judgment summons. The issue of a judgment summons under this rule shall be subject to the provisions of Rule 27 of this Order in cases to which that rule applies ; but Rule 28 of this Order shall not apply to the issue of a judgment summons under this rule. [Rule 17 ; added to, May, 1899.]

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—  
Forms 180,  
181.

31. (1.) A judgment summons shall be according to such one of the forms in the Appendix as shall be applicable to the circumstances of the case, and shall be issued not less than ten clear days and be served not less than five clear days before the day on which the judgment debtor is required to appear, except in the case provided for by the next following rule. [Rules 18 and 18*a*, April, 1895.]

Issue and  
service of  
judgment  
summons.  
Forms 178,  
181, 184.

(2.) A judgment summons may be served in accordance with the provisions of Order VII., Rule 33 ; and that rule shall apply to such service, with the substitution of the words “on the filing of the præcipe” for the words “on the entry of the plaint under Order V., Rule 9.” If served otherwise than by a bailiff, an affidavit of service according to the form in the Appendix by the person who actually effected service must be lodged with the registrar before or on the return day. [New.]

Form 185.

(3.) A judgment summons shall, where travelling expenses are paid or tendered to the judgment debtor, be deemed to be a summons to a witness within the meaning of section one hundred and eleven of the Act, and in every such case a notice according to the form in the Appendix shall be printed at the foot of or annexed to the summons. [New.]

51 & 52  
Vict., c. 43.  
s. 111.

32. Where the person applying for a judgment summons states to the registrar that the judgment debtor is about to remove from his residence or place of business, or is keeping out of the way to avoid service, the judgment summons may be issued and served at any time before the hearing : Provided that the court shall not act upon a summons issued under this rule in the absence of the judgment debtor, unless at the hearing the judge is satisfied, by evidence on oath, that at the time of the application for the judgment summons

Where  
judgment  
debtor  
about to  
remove.

ORDER  
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such party was either about to remove from his residence or place of business, or was keeping out of the way to avoid service. [Rule 19, altered.]

Successive  
judgment  
summons.

33. Where a judgment summons has not been served in due time by a bailiff, a successive summons may be issued, without fee, at any time within three months ; but if such successive summons is not served in due time, no further successive summons shall be allowed, but a fresh summons may be issued on payment of the fee. Any successive or subsequent judgment summons may be served by such person as the court may direct. If served otherwise than by a bailiff, an affidavit of service according to the form in the Appendix by the person who actually effected service must be lodged with the registrar before the return day. [Rule 20*a*, Feb., 1892.]

Form 185.

Adjourn-  
ment.

34. The hearing of a judgment summons may, by leave of the judge, be adjourned from time to time. [Rule 21*a*, Nov., 1900.]

Witnesses  
may be  
summoned  
to prove  
means.

35. Witnesses may be summoned to prove the means of a judgment debtor in the same manner as witnesses are summoned to give evidence upon the hearing of a plaint ; and the expenses of any person examined by the judge, whether summoned or not, may be allowed by the judge. Travelling expenses paid to the judgment debtor with the summons may, if the judge so directs, be allowed as expenses of a witness in any case in which the costs of witnesses may be allowed under these rules. [Rule 22 ; last sentence new.]

Name of  
witness to  
be entered  
in Book H,  
and  
whether  
proof made  
of past or  
present  
means.

36. In Book H. referred to in the Appendix there shall be entered the name of every witness who has been examined as to the means of the debtor ; and whenever an order of commitment is made there shall also be entered in the column "order" of the said book a note or minute showing whether such order has been made on account of the past or of the present ability of the debtor to obey the order of the court. [Rule 23.]

Evidence  
by  
affidavit,  
where  
creditor or  
debtor not  
resident in

37. Where a judgment creditor at whose instance a judgment summons is issued, or a judgment debtor summoned to appear by a judgment summons, does not reside within the district of the court in which the summons is to be heard, he may forward to the

registrar of the court from which the summons is issued an affidavit, setting forth any facts which he may wish to be before the court prior to any order being made on the summons. And the judge may, if he thinks fit, on the hearing of the judgment summons admit the affidavit as the evidence of the person by whom the same is made. Notice of this rule, according to the form in the Appendix, shall be printed at the foot of or annexed to every judgment summons issued pursuant to leave granted under Rule 26 of this order. [Rule 24 ; last sentence new.]

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district of  
court  
issuing  
judgment  
summons.  
Form 179.

38. Upon the issue of a judgment summons against a party upon a judgment or order of the court out of which the judgment summons is issued, the bailiff of such court shall lodge in court any warrant of execution against the goods of such party which may have been issued in the action, whether executed or not ; but any such warrant, if not fully executed, may be reissued by leave of the judge. [Rule 25, revised.]

On issue of  
judgment  
summons, any  
warrant of  
execution  
issued to be  
lodged in  
court.

39. Where a certified copy of a judgment or order is obtained from a registrar for the purpose of taking proceedings thereon in any other court, the registrar shall make on the minute of the judgment or order a memorandum of such certified copy having been given, and the bailiff of the court issuing such certified copy shall lodge in court any warrant of execution against the goods or judgment summons or order of commitment which may have been issued by such court upon such judgment or order ; and no such warrant, summons, or order shall be re-issued, nor shall any subsequent warrant of execution against the goods or judgment summons upon such judgment or order be issued by such court, nor shall any order be made under Order XXIII., Rule 14, in such court, unless it is shown to the satisfaction of the court that no order has been made against the person liable under such judgment or order in any other court upon such certified copy. [Rule 27, revised.]

Minute  
that  
certificate  
of judg-  
ment  
has been  
given to be  
made.  
Restriction  
on pro-  
ceedings in  
court  
issuing  
certificate.

40. (1.) Where a judgment summons is heard in a court other than that in which the judgment or order was obtained, a memorandum of the result of such hearing shall be sent by the registrar to the registrar of the court in which the judgment or order was obtained,

Where  
order of  
commit-  
ment  
made or  
order

ORDER  
XXV.

altered by  
another  
court, pro-  
ceedings to  
be trans-  
ferred to  
and con-  
tinued in  
that court.

and shall be entered by such last mentioned registrar on the minute of the judgment or order.

(2.) If on such hearing an order of commitment or an order altering the terms of the judgment or order is made, the proceedings shall be thereby transferred to the court in which such order is made ; and all payments, whether under the order of commitment or under the original judgment or order, or under the new order, shall be made into, and execution or other process for enforcing either the order of commitment or the original judgment or order, or the new order, shall be issued by, the court making such order of commitment or new order.

(3.) If on such hearing no order is made, the judgment or order shall remain in the court in which it was obtained, and the certified copy thereof shall be returned to that court ; and subsequent payments thereunder shall be made into, and subsequent proceedings for the enforcement thereof may be taken in, such last mentioned court. [Rule 26, revised.]

Where order  
of commit-  
ment sent to a  
foreign court.  
51 & 52 Vict.  
c. 43. s. 158.  
Form 188.

41. Where an order of commitment is sent to a foreign court under the provisions of section one hundred and fifty-eight of the Act, the registrar of the foreign court shall indorse on it a notice, according to the form in the Appendix, addressed to the governor of the prison used by that court, and shall affix the seal of the court thereto. [Rule 28.]

No com-  
mitment  
after bank-  
ruptcy or  
adminis-  
tration  
order, in  
respect of  
debt  
provable  
there-  
under.  
46 & 47  
Vict. c. 52.  
s. 122.

42. Where a judgment debtor upon the return day of a judgment summons satisfies the judge that a receiving order has been made for the protection of his estate, or that he has been adjudicated bankrupt, and that the debt was provable in the bankruptcy, or that an order has been made for the administration of his estate under section one hundred and twenty-two of the Bankruptcy Act, 1883, and that the debt was incurred before the date of the order, and has been duly notified to the court, no order of commitment shall be made, except in accordance with the provisions of the last-mentioned section. [Rule 29, revised.]

Commit-  
ment not  
to be  
enforced

43. Where a judgment debtor after the making of an order of commitment against him files in the court in which the order was



made an affidavit according to the form in the Appendix, stating that a receiving order has been made for the protection of his estate, or that he has been adjudicated a bankrupt, and that the debt was provable in the bankruptcy, or that an order for the administration of his estate has been made under section one hundred and twenty-two of the Bankruptcy Act, 1883, and that the debt was incurred before the date of the order, and has been duly notified to the court, annexing to such affidavit in such last-mentioned case a certificate of the registrar of the court in which such last-mentioned order has been so made, and forthwith upon such affidavit being so filed gives notice to the judgment creditor of the filing thereof, the order of commitment shall not be issued, and if issued and not executed it shall be recalled. [Rule 30, revised.]

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where receiving or administration order made after order of commitment.

Form 192.  
46 & 47  
Vict. c. 52.  
s. 122.

44. Where a judgment debtor is arrested, he may file in the court within the district of which he is in custody an affidavit as mentioned in the last preceding rule, and thereupon he shall be discharged out of custody upon the certificate of the registrar of that court, who shall forthwith give notice to the judgment creditor of such discharge. [Rule 31.]

Discharge of judgment debtor on filing affidavit as to bankruptcy, &c. Forms 192, 194.

45. For the purposes of the three last preceding rules the registrar of the court in which an order for the administration of a debtor's estate has been made under the provisions of section one hundred and twenty-two of the Bankruptcy Act, 1883, shall, upon the application of the debtor, issue to him a certificate according to the form in the Appendix. [Rule 32a, Feb. 1892.]

Certificate that administration order has been made. 46 & 47 Vict. c. 52, s. 122. Form 193.

46. (1.) On the hearing of a judgment summons the judge, if he is of opinion that an order of commitment ought not to be made, may refuse to make any order, or may make a fresh order for payment of the amount remaining due and unpaid under the judgment or order, either at a specified time, or by instalments. [New.]

Order on judgment summons.

(2.) If an order of commitment is made, the judge may direct the execution of such order to be suspended to enable the debtor to pay the amount in respect of the non-payment of which the order is made, by instalments or otherwise; and a note or minute of such direction shall be entered in the column "Order" in Book H referred to in the

Suspension of order of commitment.

ORDER  
XXV.

Appendix. When such direction is given, notice shall be sent to the debtor according to the form in the Appendix. [New.]

Form 191A.

Payments  
to be made  
into court.

(3.) Subject to the provisions of Rules 48 and 49 of this Order, all payments under a fresh order or order of commitment shall be paid into court. [New.]

Form,  
date, and  
duration  
of order of  
commit-  
ment.

Forms 187,  
189, 191.

(4.) An order of commitment shall be according to such one of the forms in the Appendix as shall be applicable to the circumstances of the case, and shall, on whatever day it may be issued from the registrar's office, bear date on the day on which the order for commitment was made; but such order shall not be enforced after the expiration of one year from the date thereof, unless at any time before or after the expiration of such year the judge otherwise orders. The fact of the making of any such order shall be indorsed on the order of commitment, according to the form in the Appendix. [Rule 33.]

Suspension  
of order  
for pay-  
ment of  
future in-  
stalments,  
during  
suspension  
of order of  
commit-  
ment in  
respect of  
past in-  
stalments.

47. Where a judgment or order has been given or made for payment by instalments, and an order of commitment is made in respect of the non-payment of one or more of such instalments before the whole of such instalments have become due, then, if the execution of the order of commitment is suspended to enable the debtor to pay the amount in respect of the non-payment of which the order is made, by instalments or otherwise, the judgment or order for payment of instalments shall also be suspended for so long as the execution of the order of commitment is suspended. Provided that the judge may, when making the order of commitment, or at any subsequent time, order that the judgment or order for payment of instalments shall not be suspended, or that the suspension thereof shall cease; and if the plaintiff withdraws or abandons the order of commitment, the suspension of the judgment or order for payment of instalments shall cease to operate on such withdrawal or abandonment. [New; see Administration Rules under B.A., s. 122, Rule 19.]

Payment  
on arrest.

48. When an order of commitment for non-payment of money is issued, the debtor may, at any time before his body is delivered into the custody of the gaoler, pay to the bailiff the amount indorsed on the order as that on the payment of which he may be discharged; and on receiving such amount the bailiff shall discharge the debtor, and shall within twenty-four hours after receiving such amount

pay over the same to the registrar of the court of which he is a bailiff. [Rule 34.]

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49. The sum indorsed on the order of commitment as that upon payment of which the prisoner may be discharged may be paid into the court from which the order of commitment was issued, or to the gaoler in whose custody the prisoner is, or into any foreign court to which the order is sent for re-issue under section one hundred and fifty-eight of the Act. Where the payment is made to the registrar, he shall sign and seal a certificate thereof, and upon receiving such certificate by post or otherwise the gaoler in whose custody the prisoner then is shall forthwith discharge such prisoner. And where the payment is made to the gaoler he shall, upon payment to him of such amount, together with costs sufficient to pay for transmitting such amount, transmit such amount forthwith by post office order to the registrar of the court under the order of which the prisoner was committed, and he shall sign a certificate of such payment, and discharge the prisoner, and such costs of transmission shall be part of the prescribed costs. [Rule 35.]

Payment  
in prison.

51 & 52  
Vict. c. 43.  
s. 158.

Form 195.

50. Upon the judgment creditor lodging with the registrar a request in writing, according to the form in the Appendix, that the judgment debtor, if in prison, may be discharged from custody, the registrar shall issue a certificate according to the form in the Appendix, and transmit the same by post to the gaoler in whose custody the judgment debtor is; and the gaoler shall upon receipt of such certificate forthwith discharge the prisoner. [Rule 36.]

Discharge  
of prisoner  
on request  
of judg-  
ment  
creditor.

Form 196.

Form 197.

51. A certificate of payment by a prisoner shall be according to the form in the Appendix. [Rule 37.]

Certificate  
of  
payment.  
Form 195.

52. If a judgment debtor appears on the return day, but the judgment creditor fails to appear, the judge may award costs to the judgment debtor. [Rule 38.]

Costs  
on default  
of appear-  
ance of  
judgment  
creditor.

53. No costs shall be allowed to a solicitor for attending at the hearing of a judgment summons, unless the party for whom he appears resides out of the district of the court at which the summons is heard, or unless such summons is on a judgment or order of a

What costs  
allowable  
to solicitor  
on  
judgment  
summons.

ORDER  
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court other than a county court, in either of which cases the judge may, if he thinks fit, allow the costs specified in the scale for attending in court to make or oppose an interlocutory application, or, where the amount for which the judgment summons is issued does not exceed ten pounds, a fee not exceeding five shillings. [Rules 38*aa*, April, 1895, and 38*aa* (1), May, 1899.]

Where no costs are to be allowed on judgment summons.

54. Where on the hearing of a judgment summons on a judgment or order of a county court the judge, in lieu of making an order of commitment, makes a fresh order for payment of the amount remaining due and unpaid under the judgment or order, no costs for fees or witnesses shall be allowed to the judgment creditor unless the judge is satisfied that the debtor has had since the date of the original judgment or order the means to pay the sum in payment of which he has made default, and a minute to that effect is entered in Book H. [Rule 38*bb*, April, 1895.]

Provisions as to amount for which debtor has been imprisoned, where fresh order made on judgment summons or under Order XXIII., Rule 14, and as to subsequent judgment summons under such order.  
Form 178.

55. Where on the hearing of a judgment summons the judge, in lieu of making an order of commitment, makes a fresh order for payment of the amount remaining due and unpaid under the judgment or order, or where an order for payment by instalments is made under Order XXIII., Rule 14, there shall be included in the amount payable under such order, for the purpose of any proceedings under such order otherwise than by way of judgment summons, the amount (if any) in respect of which an order of commitment has been made, and in respect of which the debtor has been imprisoned, but so that the debtor shall not be liable to be imprisoned a second time for non-payment of such last-mentioned amount. On any subsequent judgment summons on default in payment of any instalments payable under such order, the amount (if any) in respect of which the debtor has been imprisoned before the date of the order shall be deducted on the face of the summons from the amount payable under the order; but in calculating for the purposes of any such subsequent summons the amount in payment of which the debtor has made default, the instalments payable under the order shall be considered as attributable in the first instance to the discharge of the amount payable under the order other than the amount in respect of which the debtor has

been so imprisoned, and the summons may be issued for the full amount of the instalments in arrear, if such amount does not exceed the balance which remains payable under the order after deducting the amount in respect of which the debtor has been so imprisoned, or if the instalments in arrear exceed such balance, then for the amount of such balance. [Rule 38c, April, 1895.]

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56. Costs incurred in endeavouring to enforce a judgment or order by way of execution against the goods, and not recovered under such execution, shall not be included in the amount due under such judgment or order for the purposes of a judgment summons, or of an application for a fresh order for payment under Order XXIII., Rule 14, nor shall money paid into court otherwise than under execution against the goods be attributed to payment of such costs. [Rule 39a, April, 1895.]

Costs of  
abortive  
execution  
not to be  
included  
in judg-  
ment sum-  
mons, or  
fresh order  
under  
Order  
XXIII.,  
Rule 14.

### *Warrant of Attachment.*

57. Orders in the nature of an injunction, and all orders, interlocutory or otherwise, within the competence of the court, which, if the same were made in an action or matter pending in the High Court, could in such court be enforced by attachment of the person or committal, may be enforced by order of the judge by warrant of attachment, which shall be according to the form in the Appendix. [Rule 40a, Feb., 1892.]

Orders  
enforce-  
able by  
attach-  
ment.  
36 & 37  
Viet. c. 66.  
s. 89.  
Form 349.

58. Before any application is made for the issue of a warrant of attachment, a sealed copy of the order sought to be so enforced, indorsed with a notice in the form in the Appendix, shall be served upon the person to be bound thereby. The copy so indorsed shall be issued by the registrar for service, on the application of the party entitled to the benefit of the order. By leave of the registrar it may be issued to the applicant or his solicitor, and served by any person by whom a default summons may be served under Order VII., Rule 33, but in default of such leave it shall be issued to and served by a bailiff. Service shall in all cases be personal, unless the judge for good cause makes an order for substituted service pursuant to Order VII., Rule 40. [Rule 40b, Feb., 1892.]

Indorse-  
ment and  
service of  
order.  
Form 346.

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Issue and  
service of  
notice of  
attachment  
on failure  
to obey  
order after  
service of  
copy  
thereof.  
Form 347.

59. If the person bound by the order fails to obey it, the registrar, on the application of the party entitled to the benefit of the order, shall, not less than three days after service of the copy indorsed as provided by the preceding rule, issue for service a notice under the seal of the court requiring the person who has failed to obey the order to appear at a court to be held on a day to be named in such notice, to show cause why he should not be committed for his contempt in neglecting to obey such order. The notice shall be issued for service and served in the same manner and under the same conditions as the indorsed copy mentioned in the last preceding rule. By leave of the judge the notice may be issued and served at an earlier period than as above prescribed. [Rule 41*a*, Feb., 1892.]

Order of  
judge for  
attach-  
ment.  
Forms  
348, 349.

60. On the day named in the notice mentioned in the last preceding rule, the judge, on proof of service of the copy order duly indorsed as provided by Rule 58, and of the above notice as provided by the last preceding rule of this Order, and of the disobedience of the person in default, may order a warrant of attachment to issue, either unconditionally or on such terms as may be just, and may make such order as to costs as he may think fit. Provided that if the party in default appears proof of service of the copy order and notice shall not be necessary, unless the judge otherwise orders. [Rule 42*a*, Feb., 1892.]

Order to be  
drawn up  
and copy  
served.

61. The order of the judge authorising the issue of the warrant shall be drawn up and a sealed copy thereof shall be served on the person in default either before or at the time of the execution of the warrant, unless the judge otherwise orders. [Rule 42*b*, Feb., 1892.]

Discharge  
of person  
in custody  
by judge.  
Form 350.

62. Any person in custody under any order (other than an order under the Debtors Act, 1869,) in which it is directed that the application for his discharge shall be made to the judge, may make such application at the court, or by leave of the judge at any place which he may appoint, on filing an affidavit showing that he has cleared or is desirous of clearing his contempt, and giving to the party at whose instance he was committed notice in writing of his intention so to apply, with a copy of such affidavit, two clear days at least before making the application ; and such discharge, if granted, shall be given according to the form in the Appendix. [Rule 43.]

Form 351.

63. Any person in custody under any order (other than an order under the Debtors Act, 1869,) in which it is not directed that the application for his discharge shall be made to the judge, may apply to the registrar to be discharged, on filing an affidavit showing that he has cleared or is desirous of clearing his contempt, and giving to the party at whose instance he was committed notice in writing of his intention so to apply, with a copy of such affidavit, two clear days at least before making the application ; and such discharge, if granted, shall be given according to the form in the Appendix. [Rule 44.]

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Discharge of person in custody by registrar.  
Form 350.  
Form 351.

### *Warrant of Possession.*

64. A judgment or order for the recovery or for the delivery of the possession of land, or for the recovery of possession of a tenement, whether made in an action of ejectment or in any other action or matter, may be enforced by warrant of possession, which shall be according to such of the forms in the Appendix as shall be applicable to the case. [Rule 45.]

Recovery of land or possession to be enforced by warrant of possession.  
Forms 251, 263, 264, 265.

65. Where in an action of ejectment judgment is given for the plaintiff, execution may issue upon the day named in the judgment ; and if no day is named, then it may issue after the expiration of fourteen clear days from the day on which judgment is given. [Rule 46.]

Execution on judgment in action of ejectment.

66. Where in an action of ejectment judgment is given for the recovery of possession and costs, there may be either one warrant or separate warrants of execution for the recovery of possession and for the costs, at the election of the plaintiff. [Rule 47.]

Separate warrants for possession and costs on judgment in ejectment.

67. Where in an action of ejectment judgment is given for the defendants or any of them with costs, execution may issue for the costs on the day named in the judgment ; and if no day is named, then at the expiration of fourteen clear days from the day on which judgment is given. [Rule 48.]

Execution for costs against plaintiff in action of ejectment.

68. When an order is made for the recovery or for the delivery of the possession of land to any person (other than an order in an action for the recovery of possession of a tenement under section one

Warrant for recovery of land not to issue

ORDER  
XXV.  
till service  
of and dis-  
obedience  
to order  
proved.

hundred and thirty-eight or section one hundred and thirty-nine of the Act), the warrant of possession shall not be issued by the registrar without evidence by affidavit of service of the order and disobedience thereto. [Rule 49.]

### *Warrant of Delivery.*

Execution-  
for deli-  
very of pro-  
perty other  
than land  
or money.

69. Where it is sought to enforce a judgment for order or the recovery of any property other than land or money, the court may, upon the application of the plaintiff, order that a warrant of delivery shall issue for the delivery of the property, and that if the property cannot be found, the bailiff shall distrain the defendant by all his lands and chattels within the district of the court of which he is bailiff, till the defendant delivers the property; or, at the option of the plaintiff, that the bailiff shall cause to be made of the defendant's goods the assessed value, if any, of the property. [Rule 50.]

Warrants  
of delivery.  
Forms 293,  
294, 295,  
297.

70. Warrants of delivery shall be according to the forms in the Appendix; and when a warrant of delivery is issued, the plaintiff shall, either by the same or a separate warrant of execution, be entitled to have made of the defendant's goods the damages and costs awarded. [Rule 51.]

### *Miscellaneous Provisions.*

Examina-  
tion of  
debtor  
when judg-  
ment, &c.,  
for  
recovery  
of money.

71. (1.) Where a judgment or order is for the recovery or payment of money, the party entitled to enforce it may apply to the court for an order that the debtor liable under such judgment or order, or in the case of a corporation that any officer thereof, be orally examined as to whether any and what debts are owing to the debtor, and whether the debtor has any and what other property or means of satisfying the judgment or order, before the court, as the court shall appoint; and the court may make an order for the attendance and the examination of such debtor, or of any other person, and for the production of any books or documents. [Rule 52, Feb., 1892.]

Form 346.

(2.) Where an order is made under this rule a sealed copy of the order, indorsed with a notice in the form in the Appendix, shall be served upon the person to be bound thereby. The copy so indorsed



shall be issued by the registrar for service, on the application of the party entitled to the benefit of the order. By leave of the registrar it may be issued to the applicant or his solicitor, and served by any person by whom a default summons may be served under Order VII., Rule 33, but in default of such leave it shall be issued to and served by a bailiff. Service shall in all cases be personal, unless the judge for good cause makes an order for substituted service pursuant to Order VII., Rule 40. [New.]

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(3.) Any person wilfully disobeying an order for attendance and examination or the production of any books or documents under this rule, to whom payment or a tender of payment shall have been made of a sum reasonably sufficient to cover travelling expenses, not exceeding the scale of allowances for the travelling expenses of witnesses prescribed by these rules, shall be deemed guilty of contempt of court, and may be dealt with accordingly. [New.]

(4.) In this rule the expression “debtor liable under such judgment or order” includes a married woman against whom judgment has been obtained in respect of her separate estate. [New.]

72. The costs of any application under Rules 5 and 71 of this Order, or either of them, and of any proceedings arising from or incidental thereto, shall be in the discretion of the court, and paragraphs 4 to 6 of Order XII., Rule 11, shall apply to such costs. Costs of applications under Rules 5 and 71.

[New ; R.S.C. Order XLII., Rule 34.]

73. Impounded documents while in the custody of the court are not to be parted with ; and are not to be inspected, except on a written order signed by the judge. Such documents shall not be delivered out of the custody of the court except upon an order made on application to the judge, or upon an order of the High Court. Provided that impounded documents in the custody of the court shall, upon the request in writing of the Law Officers of the Crown, or either of them, or of the Director of Public Prosecutions representing the Crown, be given into the custody of such Law Officers, or of the Director of Public Prosecutions. Impounded documents.

[New ; R.S.C. Order XLII., Rule 33A.]

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## ORDER XXVI.

## ATTACHMENT OF DEBTS.

Proceed-  
ings  
against  
garnishee.

Form 198.

51 & 52  
Vict. c. 43.  
s. 74.

Form 199.

1. Any person who has obtained a judgment or order for the recovery or payment of money may, either before or after any oral examination of the debtor liable under such judgment or order, upon lodging with the registrar of the court in which the judgment or order was given or made an affidavit by himself or his solicitor stating that judgment has been recovered or an order made, and that it is still unsatisfied, and to what amount, and that any other person (herein-after called the garnishee) is indebted to such debtor, and is in respect of such debt within the jurisdiction of the court, and could be or has been sued therein with or without leave under section seventy-four of the Act, enter a plaint to obtain payment to him of the amount of the debt due to the said debtor from the garnishee, or so much thereof as may be sufficient to satisfy the said judgment or order, together with the costs of the garnishee proceedings ; and thereupon a summons in the form in the Appendix, calling upon the garnishee to show cause why he should not pay to the person who has obtained such judgment or order the debt due from him to such debtor, or so much thereof as may be sufficient to satisfy the judgment or order, together with the costs aforesaid, shall be issued by the registrar ; and the name and address of the person entering the plaint, or of his solicitor, shall be entered on the summons. In this rule the expression "debtor" includes a married woman against whom judgment has been obtained in respect of her separate estate. [Order XXVIA., Rule 1.]

When gar-  
nishee not  
within  
jurisdic-  
tion.

Form 155.  
Form 198.  
Form 199.

2. Where the garnishee is not in respect of such debt within the jurisdiction of the court in which the judgment or order was obtained, the person who has obtained such judgment or order, upon lodging with the registrar of the court in the district of which the garnishee resides or carries on business a certificate of the judgment or order, and also an affidavit similar to that prescribed by the last preceding rule, may enter a plaint against the garnishee in such last-mentioned court ; and thereupon a summons shall be issued and all proceedings

shall be had and taken thereon as if the judgment or order had been obtained in such court. [Rule 2.]

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3. The summons shall be personally served on the garnishee, by any person by whom a default summons may be served under Order VII., Rule 33, or on the solicitor of the garnishee in accordance with Order VII., Rule 12; and when so served it shall bind in the hands of the garnishee all debts due, owing, or accruing from him to the debtor liable under the judgment or order. [Rule 3, altered.]

Service  
and effect  
of gar-  
nishee  
summons.

4. Where the garnishee is a firm or a company or other corporation, the summons need not be served personally, but it may be served as provided by Order VII. with respect to the service of an ordinary summons. [Rule 4.]

Service on  
firm or  
company.

5. (1.) The garnishee may at any time before the return day of the summons pay into court the amount admitted by him to be due from him to the debtor liable under the judgment or order, less the costs allowed by the scales in Part IV. of the Appendix in respect of such payment, if such costs are actually incurred; or if the amount so admitted, after deduction of such costs, is more than sufficient to satisfy the amount in respect of which such judgment or order is unsatisfied, and the fees and solicitor's costs (if any) indorsed on the garnishee summons, the garnishee may pay into court a sum sufficient to satisfy such amount, fees, and costs.

Payment  
into court  
by garni-  
shee.

(2.) The registrar shall send notice of any payment into court to the person who obtained the judgment or order, as in the case of payment into court in an action before judgment.

Forms 73,  
74.

(3.) If the person who obtained the judgment or order elects to accept the money paid into court in satisfaction of his claim against the garnishee, he shall send notice of such acceptance to the registrar and the garnishee, as in the case of payment into court in an action.

Form 76.

(4.) Thereupon all further proceedings against the garnishee shall abate, except as herein provided, and the person who obtained the judgment or order shall not be liable to any costs incurred by the garnishee after receiving such notice.

(5.) If payment into court is made by the garnishee five clear days before the return day, he shall not be liable for any further costs

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- Form 77. incurred by the person who obtained the judgment or order ; but if it is made less than five clear days before the return day, the court may, in its discretion, order the garnishee to pay such fees and costs, beyond the fees and costs (if any) paid into court by the garnishee, as the person who obtained the judgment or order may have properly incurred for work done before receipt of the notice of payment into court, and in attending the court to obtain the order for the same, but no hearing fee shall be charged ; and if such person intends to apply for such costs, he shall give notice of his intention in his notice of acceptance of the sum paid in ; or where the time of payment into court by the garnishee does not permit of notice of acceptance being given, he may apply for such costs without giving such notice.
- Form 76.

(6.) Where the person who obtained the judgment or order has not given notice of acceptance in accordance with paragraph 1 of this rule, he may nevertheless accept the money paid into court at any time before the case is called on and opened, subject to the payment of any costs which may have been reasonably incurred by the garnishee since the date of payment into court, and which may be allowed by the court.

(7.) In default of acceptance by the person who obtained the judgment or order, the proceedings against the garnishee may proceed. [New : substituted for Rules 5 and 6.]

**Payment  
out of  
court of  
money  
paid in by  
garnishee.**

6. Subject to the provisions of this rule, money paid into court by the garnishee, and accepted by the person who obtained the judgment or order, shall, on application made by such person, be paid out to him in accordance with the rules as to payment out of money paid into court.

(2.) Provided as follows :—

- (a.) Before such money is paid out the court shall be satisfied that the person who obtained the judgment or order has not received payment of the amount payable under the judgment or order from any other source, and has not obtained an order for payment of such amount under any other garnishee proceedings : And if it appears that such person has received payment or obtained an order for payment of any part of such

amount, so much only of the money paid into court shall be paid out to him as will, with the amount so received or for payment whereof an order has been obtained, make up the full amount payable under the judgment or order, and any fees or costs allowed to such person in the garnishee proceedings ; and the balance of the money paid into court shall be dealt with as the court shall direct ; and

ORDER  
XXVI.  
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- (b.) Before such money is paid out, the judge may direct the registrar to send to the debtor liable under the judgment or order notice of the garnishee summons having been issued (with a copy of such summons) and of such money having been paid into court, with a notice informing him that the money will be paid out to the person who obtained the judgment or order, unless the debtor liable under the judgment or order appears on the return day of the garnishee summons (or on any later day to be named in the notice), and shows cause to the contrary ;
- (c.) Such notice may be delivered or sent by post to the debtor liable under the judgment or order at his usual residence or place of business ; and such debtor may appear and show cause according to such notice, and the court may thereupon make such order as to the money paid into court, and as to costs, as may be just ;
- (d.) If such debtor suggests, or it is otherwise made to appear to the court, that the money paid into court belongs to or is claimed by some third person, or that any third person has or claims to have a lien or charge on it, the court may proceed in accordance with Rule 10 of this Order ;
- (e.) No hearing fee shall be payable on an application for payment out of money paid into court by a garnishee, unless notice is directed to be given under the last preceding paragraph, and the debtor to whom such notice is given appears and shows cause, or unless such debtor suggests, or it is otherwise made to appear to

Form 200.

ORDER  
XXVI.

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the court, that the money paid into court belongs to or is claimed by a third person, or that any third person has or claims to have a lien or charge on it, and the court thereupon proceeds in accordance with Rule 10 of this Order, in either of which cases a hearing fee shall be payable on the amount so paid into court. [New ; substituted for Rule 6.]

Order on  
return day,  
if garni-  
shee does  
not appear  
or dispute  
liability.

7. If the garnishee does not before the return day of the summons pay into court the amount admitted by him to be due from him to the debtor liable under the judgment or order, or so much thereof as shall be sufficient to satisfy the amount in respect of which such judgment or order is unsatisfied, and the fees and solicitor's costs (if any) indorsed on the garnishee summons, and does not on the return day dispute the debt due or claimed to be due from him to such debtor, or if he does not appear on the return day, the judge may give judgment for the person by whom the judgment or order was obtained, and may order execution to issue to levy the amount due from the garnishee, or so much thereof as shall be sufficient to satisfy the judgment or order, and any costs allowed. [New ; substituted for Rule 7.]

Form 201.

Form 202.

Proceed-  
ings on  
return  
day, if  
garnishee  
disputes  
liability.  
Form 201.

8. If no amount is paid into court, or the amount (if any) paid into court under Rule 5 of this order is not accepted, and the garnishee appears on the return day and disputes his liability, the judge may determine as to the liability of the garnishee to pay any sum or further sum on account of the debt claimed to be due from him to the person liable under the judgment or order, and as to the party by whom the costs of the garnishee proceedings shall be paid, and make such order as may be in accordance with such determination ; or he may, instead of giving judgment, order that any issue or question necessary for determining the liability of the garnishee to pay any sum or further sum be tried or determined in any manner in which any issue or question in an action may be tried or determined. [Substituted for Rules 8 and 9.]

Certificate  
where  
garnishee  
sued in  
court other

9. Where the court in which the garnishee is sued is not the court in which the judgment or order upon which he is garnished was given or made, the registrar of such first-mentioned court shall send

forthwith a certificate of the order of his court to the court in which such judgment or order was given or made, and shall also send notice from time to time of any payment made on, before, or after the return day. [Rule 10.]

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than that  
in which  
judgment  
obtained.

10. Whenever in proceedings to obtain an attachment of debts it is suggested by the garnishee or the debtor liable under the judgment or order, or is otherwise made to appear to the judge, that the debt sought to be attached belongs to or is claimed by some third person, or that any third person has or claims to have a lien or charge upon it, the judge may order such third person to appear, and state the nature and particulars of his claim upon such debt. After hearing the allegations of such third person, and of any other person whom the judge by the same or any subsequent order may order to appear, or in case of such person not appearing when ordered, the judge may decide in favour of the person who obtained the judgment or order, or may order any issue or question to be tried or determined between such third person and the person who obtained the judgment or order, and may bar the claim of such third person or make such other order as he may think fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such third person, and to costs, as the judge may think just and reasonable. [Rule 11, revised.]

Where  
debt is  
stated to  
belong to a  
third per-  
son, or  
there is a  
lien  
thereon.  
[Rule 11,  
revised.]

11. Payment made by or execution levied upon a garnishee under any such proceedings as aforesaid shall be a valid discharge to him as against the debtor liable under the judgment or order, to the amount paid or levied (inclusive of any amount allowed to the garnishee for costs, and which he is by these rules or by order of the court allowed to deduct from the amount due from him to the debtor, but exclusive of the amount paid or levied in respect of any costs ordered to be paid by the garnishee personally,) although such proceedings may be set aside, or the judgment or order reversed. [Rule 12.]

Payment  
by or  
execution  
levied on  
garnishee  
a dis-  
charge  
against  
debtor.

12. The costs of any application for an attachment of debts, and of any proceedings arising from or incidental to such application, shall be in the discretion of the court. Any costs allowed to the judgment creditor, which are not ordered to be paid by the garnishee personally, shall, unless otherwise directed, be taxed by the registrar, and retained by the judgment creditor out of the money recovered by

Costs.

ORDER  
XXVI.

him in the garnishee proceedings, in priority to the amount due under the judgment or order obtained by him against the debtor. [Rule 13, revised ; *see* R.S.C. Order XLV., Rule 9A, July, 1901.]

Entry of  
amount re-  
covered from  
garnishee  
in books  
relating to  
judgment  
against  
debtor.

13. The registrar shall enter in the books relating to the judgment or order obtained against the debtor a memorandum of the amounts paid or ordered to be paid by the garnishee (exclusive of the amount of any costs ordered to be paid by the garnishee personally), and of the costs allowed to the judgment creditor and allowed to be retained by him out of the money recovered by him in the garnishee proceedings. [New ; *conf.* R.S.C. Order XLV., Rule 8.]

Judge may  
refuse to  
interfere.  
[Rule 14.]

14. In proceedings to obtain an attachment of debts the judge may, in his discretion, refuse to interfere, where from the smallness of the amount to be recovered, or of the debt sought to be attached, or otherwise, the remedy sought would be worthless or vexatious.

Provisions  
as to  
money  
due from  
garnishee  
under  
judgment  
or order  
obtained  
by debtor  
against  
him.

15. Where the amount due from the garnishee to the debtor liable under the judgment or order is due under a judgment or order obtained by the debtor against the garnishee, the following provisions shall apply :—

- (a.) The garnishee shall not be liable to pay the amount due from him to the debtor to the person who obtained the judgment or order against the debtor by any larger instalments than those by which he is liable to pay such amount under the judgment or order obtained by the debtor against him, unless the judge for good cause otherwise orders.
- (b.) The registrar shall enter in the books relating to the judgment or order obtained by the debtor against the garnishee a memorandum of the amounts paid or ordered to be paid by the garnishee in the garnishee proceedings (inclusive of any amount allowed to the garnishee for costs, and which he is by these rules or by order of the court allowed to deduct from the amount due from him to the debtor, but exclusive of the amount of any costs ordered to be paid by the garnishee personally), and such judgment or order shall be deemed to be satisfied to the amount paid by or levied by execution upon the garnishee in the garnishee proceedings.



(inclusive of the amount of costs allowed to be deducted as aforesaid, but exclusive of the amount paid or levied in respect of any costs ordered to be paid by the garnishee personally), although such proceedings may be subsequently set aside, or the judgment or order obtained against the debtor may be subsequently reversed, and shall be deemed to be satisfied to the amount (exclusive as aforesaid) ordered to be paid in the garnishee proceedings, unless such proceedings are subsequently set aside, or the judgment or order obtained against the debtor is subsequently reversed, in which latter case the liability of the garnishee to the debtor under the judgment or order obtained by the debtor against him shall be revived to the amount (exclusive as aforesaid) ordered to be paid in the garnishee proceedings which remains unpaid at the time of such setting aside or reversal, and a memorandum to that effect shall be made in the books relating to such judgment or order. [New.]

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16. Nothing in this Order shall be taken to authorise a person who has obtained a judgment or order to take proceedings to obtain an attachment of any sum which is due to the debtor liable under such judgment or order from any other person under a judgment or order obtained by the debtor against such other person, and which has been paid into court under such last-mentioned judgment or order for the use of the debtor; but in any such case the person who has obtained such judgment or order against the debtor may, on giving two days notice in writing to the debtor and to the registrar to whom such sum has been paid, apply to the judge to order such sum to be paid to him. On the receipt of any such notice the registrar shall retain the money in court until after the application has been heard, and the judge, on the hearing of the application, may make such order as to the money so paid into court, and as to costs, as he may think just; and a memorandum shall be made in the books relating to the judgment or order obtained by the debtor and the judgment or order obtained against him of the manner in which such money is ordered to be applied. [New.]

Applica-  
tion by  
judgment  
creditor as  
to money  
paid into  
court under  
judgment  
or order  
obtained  
by debtor  
against  
third  
person.  
*Dolphin v.*  
*Layton*, 4  
C.P.D. 130.

17. Debts owing from a firm carrying on business within England and Wales may be attached under this Order, although one or more

Attach-  
ment of  
debts

ORDER  
XXVI.owing from  
a firm.

members of such firm may be resident abroad ; provided that any person having the control or management of the partnership business or any member of the firm within England or Wales is served with the garnishee summons.

[New ; R.S.C. Order XLVIII.A, Rule 9.]

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## ORDER XXVII.

## INTERPLEADER.

Notice of  
claim to  
execution  
creditor.  
Form 203.

1. (1.) Where a claim is made to or in respect of any goods or chattels taken in execution under the process of a court it shall be in writing ; and thereupon the high bailiff shall forthwith send notice to the execution creditor, according to the form in the Appendix. [Order XXVII., Rule 1.]

Form 204.  
Order for  
possession  
fees where  
claim  
admitted.

(2.) If the execution creditor admits the title of the claimant to the goods or chattels, and sends notice in due course of post to the high bailiff of such admission according to the form in the Appendix, or to the like effect, he shall only be liable to such high bailiff for any possession fees or expenses incurred by the high bailiff prior to the receipt of such notice ; and the judge may, if he thinks fit, on application by the high bailiff, make an order for payment of any such fees or expenses by the execution creditor to the high bailiff. Any such application shall be made in writing, and intituled in the matter of the execution, and three clear days notice in writing thereof shall be given by the high bailiff to the execution creditor. [Order XXVII., Rule 1 ; amended, June, 1896.]

Notice to  
claimant to  
make deposit  
or give  
security.

Form 205.  
51 & 52 Vict.  
c. 43. s. 156.

(3.) The high bailiff shall also forthwith send notice to the claimant, according to the form in the Appendix, requiring him to make deposit or give security in accordance with section one hundred and fifty-six of the Act. [Order XXVII., Rule 1a, April, 1895.]

Power to  
make order  
protecting  
high bailiff  
from action  
by

2. Where the execution creditor gives notice in due time to the high bailiff, as directed by Rule 1 of this Order, that he admits the title of the claimant to the goods or chattels, the high bailiff may thereupon withdraw from possession, and may apply for

an order protecting him from any action in respect of the seizure and possession of the said goods and chattels, and the judge may make any such order as may be just and reasonable in respect of the same. Any such application shall be made in writing, and intituled in the matter of the execution, and three clear days notice in writing thereof shall be given by the high bailiff to the claimant, who may, if he desires it, attend the hearing of the application; and if he attends, the judge may, in and for the purposes of such application, make all such orders as to costs as may be just and reasonable. [Rule 1*b*, Dec., 1896.]

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claimant,  
where  
execution  
creditor  
admits  
claim  
before in-  
terpleader  
summons  
issued.

3. Where the execution creditor does not in due time, as directed by Rule 1 of this order, admit the title of the claimant to the goods or chattels, and the claimant persists in his claim thereto, the high bailiff shall apply for an interpleader summons to be issued; and if before the return day of such summons the claimant files notice that he withdraws his claim, and at the same time gives notice of such withdrawal to the execution creditor, or the execution creditor files an admission of the title of the claimant, and at the same time gives notice of such admission to the claimant, the goods and chattels taken in execution or the proceeds of sale thereof, or the money paid into court (as the case may be), shall be dealt with and disposed of as if such claim had not been made, or as if the execution had been withdrawn (as the case may be), and the judge may, in and for the purposes of the interpleader proceedings, make all such orders as to costs, fees, charges, and expenses as may be just and reasonable.

Issue of  
summons  
where  
execution  
creditor  
does not  
admit  
claim.  
Forms  
206-210.  
[Rule 2,  
revised.]

4. Where any claim is made to or in respect of any goods or chattels taken in execution, or in respect of the proceeds or value thereof, and summonses have been issued on the application of the high bailiff, such summonses shall be served in such time and mode as by these rules directed for the service of an ordinary summons to appear to a plaintiff, and the case shall proceed as if the claimant were the plaintiff, and the execution creditor the defendant: Provided that where the claimant has not made deposit or given security in accordance with section one hundred and fifty-six of the Act, the time of service may, if the high bailiff so desires, by leave of the court, be such as will obtain a speedy decision on the claim. [Rule 3.]

Proceed-  
ings gene-  
rally.

51 & 52  
Vict. c. 43  
s. 156.

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Claimant  
to lodge  
particulars  
and  
grounds of  
claim.

Forms 211,  
212.

[Rule 4a,  
Feb., 1892.]

5. The claimant shall, five clear days at least before the return day, deliver to the high bailiff, or leave at the office of the registrar, two copies of the particulars of any goods or chattels alleged to be the property of the claimant, and of the grounds of his claim, or in case of a claim for rent of the amount thereof, and for what period and in respect of what premises the same is claimed to be due ; and the name, address, and description of the claimant shall be fully set forth in such particulars, and the high bailiff shall forthwith send by post to the execution creditor one of the copies of such particulars. Any money paid into court under the execution shall be retained by the registrar until the claim has been adjudicated upon : Provided that by consent of all parties, or without such consent if the judge so directs, an interpleader claim may be tried although this rule has not been complied with. [Rule 4a, Feb., 1892.]

High  
bailiff's  
fees.

6. The judge upon the hearing shall adjudicate upon any claim of the high bailiff for fees, and may, if he thinks fit, order the same, or such part thereof as he may think just, to be paid by the claimant or by the execution creditor. [Rule 5.]

Power to  
delay sale  
where  
claimant  
fails to  
comply  
with pro-  
visions of  
51 & 52  
Vict. c. 43.  
s. 156.

7. In the event of the claimant of any goods taken in execution not making, in accordance with the provisions of section one hundred and fifty-six of the Act, a deposit with the bailiff either of the amount of the value of the goods claimed, or of the sum which the bailiff is allowed to charge as costs for keeping possession of such goods until a decision can be obtained, and not giving security for such value, the bailiff may, in his discretion, delay selling such goods until the judge has adjudicated on the claim ; and for the keeping of such continued possession he shall be allowed such costs out of pocket only as the judge may order. [Rule 6.]

Claim of  
damages by  
claimant.  
Form 211.

8. Where the claimant to goods taken in execution claims damages from the execution creditor or from the high bailiff for or in respect of the seizure of the goods, he shall in the particulars of his claim to the goods state the amount he claims for damages, and the grounds upon which he claims damages. [Rule 7.]

Claim of  
damages by  
execution  
creditor  
against  
high  
bailiff.

9. Where under section one hundred and fifty-seven of the Act an execution creditor claims damages against a high bailiff arising out of the execution of any process, he shall five clear days at least before the return day of the interpleader summons give notice in

writing of such claim to the registrar and to the high bailiff, stating the grounds and amount of such claim, according to the form in the Appendix ; and he may thereupon apply to the judge at the hearing of the interpleader summons to adjudicate upon such claim. For the purposes of fees and costs such claim shall be deemed to be a claim in an interpleader. [Rule 8, revised.]

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51 & 52  
Vict. c. 43.  
s. 157.  
Form 222.

10. Where a claim for damages under section one hundred and fifty-seven of the Act is made against any high bailiff and execution creditor, or either of them, they or either of them may pay into court money in satisfaction of such claim for damages ; and such payment into court shall be made in the same manner and have the same effect, and the parties respectively shall have the same rights and remedies, as they would respectively have if the proceeding were an action in which the claimant was plaintiff, and the high bailiff and execution creditor were defendants. A high bailiff may in like manner pay money into court in satisfaction of a claim for damages made against him by an execution creditor. [Rule 9 ; last paragraph new.]

Payment  
into court  
where  
damages  
claimed  
under 51 &  
52 Vict. c.  
43. s. 157.

11. Interpleader summonses shall be issued by the registrar, on the application of the high bailiff, without leave of the judge, and shall be served on the solicitor of any party who acts by a solicitor. [Rule 10.]

Inter-  
pleader  
summons.

12. Interpleader summonses shall be issued from the court of the district in which the levy was made, and the execution creditor and claimant shall be summoned to such court. [Rule 11.]

From what  
court  
issued.

13. When goods or chattels have been seized in execution under process of the court, and any claimant alleges that he is entitled under a bill of sale or otherwise to such goods or chattels by way of security for a debt, the judge may order a sale of the whole or part thereof, and may direct the application of the proceeds of such sale in such manner and upon such terms as may be just. A duplicate of such order shall be delivered by the registrar to the high bailiff, who shall thereupon forthwith sell the goods or chattels pursuant to the order, and after deducting the expenses of the sale and the taxes and rent, if any, directed by the order to be paid, shall pay the balance of the proceeds

Judge may  
direct sale  
of goods  
claimed  
under bill  
of sale, &c.

ORDER  
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into court, and such balance shall thereupon be applied by the registrar in accordance with the directions contained in the order of the court. [Rule 12*a*, Feb., 1892.]

Order on  
inter-  
pleader.  
Forms  
213-220,  
223-225.

14. The order made upon the hearing of an interpleader summons shall contain directions as to how any money paid into court in the proceeding is to be disposed of. A minute of every such order shall be entered in the minute book, but no order need be drawn up or served unless any of the parties shall require it, or the court otherwise orders. The order, if drawn up, shall be according to such one of the forms in the Appendix as shall be applicable to the case. [Substituted for Rule 12*b*, April, 1895.]

Inter-  
pleader in  
action by  
assignee,  
where  
assignor  
disputes  
assign-  
ment, or in  
action for  
debt, chose  
in action,  
or chattel,  
where de-  
fendant has  
notice of  
conflicting  
claims.  
Form 226.  
[Rule 13*a*,  
June,  
1896.]

15. (1.) Where the defendant in an action brought by the assignee of a debt or chose in action has had notice that the assignment is disputed, as to the whole or any part of such debt or chose in action, by the assignor or any one claiming under him, or where the defendant in any such action, or in any other action for any debt, chose in action, money, goods, or chattels, has had notice of any other opposing or conflicting claims to the whole or any part of such debt, chose in action, money, goods, or chattels, such defendant may, within five days of the service of the summons, apply to the registrar for a summons against the assignor or the person making such opposing or conflicting claim, herein-after called the claimant.

(2.) The defendant must satisfy the registrar, by affidavit according to the form in the Appendix, that he claims no interest in the subject matter in dispute other than for charges or costs, and does not collude with either the plaintiff or the claimant, and is willing to pay or transfer the subject matter into court, or dispose of it as the court may direct. On filing such affidavit the defendant shall lodge with the registrar copies thereof for the plaintiff and the claimant.

(3.) The defendant shall not be disentitled to relief by reason only that the titles of the plaintiff and the claimant have not a common origin, but are adverse to and independent of each other.

Form 227.

(4.) The registrar shall, on being satisfied as aforesaid, issue for service on the claimant an interpleader summons according to the form in the Appendix, returnable as soon as conveniently may be, and shall annex thereto a copy of the original summons and of

the defendant's affidavit, and shall adjourn the trial of the action to the day on which the interpleader summons is made returnable, and shall give notice to the plaintiff and defendant of the issue of the interpleader summons and of the adjournment of the trial of the action, according to the forms in the Appendix.

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Forms  
228, 229.

(5.) The claimant shall, five clear days at least before the return day of the interpleader summons, leave at the office of the registrar either three copies of a notice that he relinquishes his claim, or three copies of particulars stating the grounds on which he disputes the assignment or founds his claim to the subject matter in the action; and the registrar shall forthwith send by post one of such copies to the plaintiff, and one other of such copies to the defendant. Provided that by consent of all parties, or without such consent if the judge so directs, the interpleader may be tried although this rule has not been complied with.

Claimant  
to file  
notice of  
relinquish-  
ment, or  
particulars  
of claim.  
Form 230.

(6.) On filing his affidavit, or at any time after the issue of the interpleader summons, the defendant may pay the debt or money or bring the chose in action, goods, or chattels into court, to abide its decision.

Payment  
into court  
by de-  
fendant.

(7.) Upon the return day of the interpleader summons—

Inter-  
pleader,  
how dis-  
posed of.  
Where  
plaintiff  
does not  
appear.

(a.) If the plaintiff does not appear, the action and interpleader summons shall be struck out, and the judge may make such order as to costs as may be just.

(b.) If the claimant does not appear, the judge shall hear and determine the action as between the plaintiff and the defendant, and may make an order declaring the claimant and all persons claiming under him for ever barred against the defendant and all persons claiming under him, and may make such order as to costs against the claimant as may be just, but the order shall not affect the rights of the plaintiff and the claimant between themselves; or if the claimant has filed notice that he relinquishes his claim, the judge may make an order declaring him and all persons claiming under him for ever barred against both the plaintiff and the defendant and all persons claiming under them, and may

Where  
claimant  
does not  
appear.

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Where  
both  
appear.

Forms  
231-233.

make such order against the claimant as to costs incurred by the other parties before the receipt of notice of relinquishment as may be just.

(c.) If both the plaintiff and the claimant appear, the judge shall, whether the defendant does or does not appear, hear the cases of the plaintiff and the claimant (and the case of the defendant if he appears), and shall give such judgment thereon as shall finally determine the rights and claims of all parties; but the judge shall not make any order in favour of the claimant against the defendant unless the claimant requests him so to do.

Discovery,  
trial, costs,  
and inci-  
dental  
matters.

(8.) Orders XVI. and XXII. shall, with the necessary modifications, apply to interpleader proceedings; and the judge may in and for the purposes of any such proceedings make all such orders as to costs and all other matters (including the repayment to the defendant of any costs paid by him into court, and the disposal of any money, chose in action, goods or chattels paid or brought by the defendant into court) as may be just and reasonable.

ORDER  
XXVIII.

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ORDER XXVIII.

TRANSMISSION OF PROCEEDS OF WARRANTS FROM FOREIGN  
DISTRICTS.

Transmis-  
sion and  
entry of  
warrants to  
be execut-  
ed in a  
foreign  
district.  
Form 173.  
51 & 52  
Vict. c. 43.  
s. 158.

1. In all cases of warrants against the goods or orders of commitment to be executed in a foreign district, the high bailiff of the court from which the warrant or order issued shall send the same with a warrant according to the form in the Appendix, signed by the high bailiff with his own hand and sealed with the seal of the court, to the registrar of the foreign court, as required by section one hundred and fifty-eight of the Act; and the registrar of the foreign court shall immediately on the receipt of the warrant or order make an entry of the receipt thereof in the "Foreign Executions Re-issued Book." [Rule 1.]

Account-  
ing for and  
transmis-  
sion of

2. Where by virtue of any warrant sent to a foreign district any money has been received by the bailiff of the foreign court, such bailiff shall, within twenty-four hours from the receiving of such



money, pay over the same to the registrar of the foreign court, and shall, unless an interpleader summons as to such money is pending, make a return in writing of the amount received, according to the form in the Appendix ; and in the case of a levy having been made, the bailiff shall state in the return the gross amount produced by such levy, the particulars of the appraiser's and broker's charges, and the fees allowed for keeping possession, and he shall pay over to the registrar of the foreign court the amount levied, less such charges and fees ; and the registrar of the foreign court shall certify in the said return the amount paid into court, and the correctness of the said charges, and shall account for and pay over such amount to the treasurer of his court at such time as the treasurer shall require ; and the high bailiff shall thereupon transmit such return to the high bailiff of the home court, as directed by section one hundred and fifty-eight of the Act, and such latter bailiff shall, within twenty-four hours from the receipt of such return, deliver the same to the registrar of his court, who shall file such return and thereupon pay out of any money in his hands to the plaintiff in the action the amount certified in such return to have been received by the registrar of the foreign court as the proceeds of the execution, and shall enter in a book the amount so certified, according to the form in the Appendix ; and the registrar shall be allowed by the treasurer of his court, at his audit, the amount so paid. [Rule 2.]

ORDER  
XXVIII.

proceeds  
levied in  
foreign  
district.  
Form 175.

51 & 52  
Vict. c. 43.  
s. 158.

Appendix,  
Part II.,  
Form M.

3. Where by virtue of any order of commitment to be executed in a foreign district any money has been paid into the court of such district, the registrar shall transmit a certificate, according to the form in the Appendix, to the registrar of the home court of the amount so paid in, and shall account for and pay over the amount to the treasurer of his court at such time as the treasurer shall require ; and the registrar of the home court shall upon the receipt of the certificate file the same and pay out of any money in his hands to the judgment creditor the amount so certified to have been received by the registrar of the foreign court, and shall enter the same in the book mentioned in the last preceding rule ; and he shall be allowed by the treasurer of his court, at his audit, the amount so paid. [Rule 3.]

Certificate  
of pay-  
ment into  
foreign  
court  
under  
order of  
commit-  
ment.  
Form 175.

ORDER  
XXIX.

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ORDER XXIX.

SECURITY.

Security  
by bond.

[Rule 1.]

Form 235.

Form 237.

1. Where a party proposes to give a bond by way of security, he shall serve, by post or otherwise, on the opposite party and upon the registrar, at his office, notice of the proposed sureties, according to the form in the Appendix ; and the registrar shall forthwith give notice to both parties of the day and hour on which he proposes that the bond shall be executed, and shall state in the notice to the obligee that any valid objection which he may have to make to the sureties or either of them must be made on such day.

Affidavit of  
sufficiency.  
Form 236.

2. The sureties shall make an affidavit of their sufficiency according to the form in the Appendix, unless the opposite party dispenses with such affidavit. [Rule 2.]

Execution  
of bond.

3. The bond shall be executed in the presence of the judge or registrar, or of a commissioner to administer oaths, or of a clerk to the registrar nominated to take affidavits. [Rule 3.]

Deposit in  
lieu of  
bond.

4. Where a party makes a deposit of money in lieu of giving a bond, he shall forthwith give notice to the opposite party, by post or otherwise, of such deposit having been made. [Rule 4.]

Bond to be  
deposited.  
[Rule 5.]

5. In all cases where the security is by bond, the bond shall be given to the party or persons requiring the security, and shall be deposited with the registrar until the action is finally disposed of.

Officer of  
court not  
to be  
surety.

6. No registrar, deputy registrar, registrar's clerk, high bailiff, bailiff, broker, or other officer of the court, shall become surety in any case where by the practice of the court security is required. [Rule 6.]

## ORDER XXX.

ORDER  
XXX.  

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## PROCEEDINGS BY AND AGAINST EXECUTORS AND ADMINISTRATORS.

1. In actions by executors or administrators, if the plaintiff fails, the costs shall, unless the court otherwise orders, be awarded in favour of the defendant, and shall be levied *de bonis propriis*. [Rule 1.] Costs where plaintiff fails.
2. Where an executor or administrator, plaintiff or defendant, does not appear on the day of hearing, the provisions of sections eighty-eight, eighty-nine, and ninety-one of the Act shall apply respectively, subject to the rules applicable to executors or administrators suing or sued. [Rule 2.] Costs on non-appearance. 51 & 52 Vict c. 43. ss. 88, 89, 91.
3. A party suing an executor or administrator may charge in the summons that the defendant has had assets and has wasted them, and he shall state in his particulars the amount of assets alleged to have been left by the deceased, and the manner in which the said assets have been wasted. [Rule 3.] Waste of assets.
4. Where a defendant is charged with waste in the summons, if the judge is of opinion that the defendant has wasted the assets, the judgment shall be that the debt or damages and costs shall be levied *de bonis testatoris*, *si*, &c., *et si non*, *de bonis propriis*; and the non-payment of the amount of the demand immediately on the judge finding such demand to be correct, and that the defendant is chargeable in respect of assets, shall be conclusive evidence of wasting to the amount with which he is so chargeable. [Rule 4.] Judgment where waste charged. Form 238.
5. Where a defendant, sued as an executor or administrator, admits his representative character, and only denies the demand, if the plaintiff proves the demand the judgment shall be that the demand and costs shall be levied *de bonis testatoris*, *si*, &c., *et si non*, as to the costs, *de bonis propriis*. [Rule 5.] Judgment where representation admitted, but demand denied. Form 239.
6. Where such defendant admits his representative character, but denies the demand, and alleges a total or partial administration of assets, and the plaintiff proves his demand, and the defendant proves the Judgment where representation admitted, and demand

ORDER  
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denied but  
proved, and  
admini-  
stration  
alleged and  
proved.  
Form 240.

Judgment  
in like case  
where ad-  
ministra-  
tion not  
proved.  
Form 241.

administration alleged, the judgment shall be to levy the costs of proving the demand *de bonis testatoris, si, &c., et si non, de bonis propriis*; and as to the demand, judgment of assets, *quando acciderint*; and the plaintiff shall pay the defendant's costs of proving the administration of assets, unless the court otherwise orders. [Rule 6.]

7. Where such defendant admits his representative character, but denies the demand, and alleges a total or partial administration of assets, and the plaintiff proves his demand, but the defendant does not prove the administration alleged, the judgment shall be to levy the amount of the demand, if such amount of assets is shown to have come to the hands of the defendant, or such amount as is shown to have come to them, and costs, *de bonis testatoris, si, &c., et si non*, as to the costs, *de bonis propriis*, and as to the residue of the demand, if any, judgment of assets, *quando acciderint*. [Rule 7.]

Judgment  
where repre-  
sentation and  
demand  
admitted,  
and adminis-  
tration  
alleged and  
proved.  
Form 242.

8. Where such defendant admits his representative character and the plaintiff's demand, but alleges a total or partial administration of assets, and proves the administration alleged, the judgment shall be of assets, *quando acciderint*, and the plaintiff shall pay the defendant's costs of proving the administration of assets, unless the court otherwise orders. [Rule 8.]

Judgment  
in like case  
where ad-  
ministra-  
tion not  
proved, and  
no other  
defence es-  
tablished.  
Form 243.

9. Where such defendant admits his representative character and the plaintiff's demand, but alleges a total or partial administration of assets, but does not prove the administration alleged, and has not established any other ground of defence, the judgment shall be to levy the amount of the demand, if such amount of assets is shown to have come to the hands of the defendant, or such amount as is shown to have come to them, and costs, *de bonis testatoris, si, &c., et si non*, as to the costs, *de bonis propriis*, and as to the residue of the demand, if any, judgment of assets, *quando acciderint*. [Rule 9.]

Proceed-  
ings after  
judgment  
on assets  
*quando  
acciderint*.  
Form 244.

10. Where judgment has been given against an executor or administrator that the amount be levied upon assets of the deceased, *quando acciderint*, the plaintiff may issue a summons according to the form in the Appendix; and if it appears that assets have come

to the hands of the executor or administrator since the judgment, the judge may order that the debt, damages, and costs be levied *de bonis testatoris, si, &c., et si non*, as to the costs, *de bonis propriis* : Provided that it shall be competent for the party applying to charge in the summons that the executor or administrator has wasted the assets of the testator or intestate, in the same manner as in Rule 3 of this Order, and the provisions of Rule 4 shall apply to such inquiry ; and the judge may, if it appears that the party charged has wasted the assets, direct a levy to be made as to the debt and costs, *de bonis testatoris, si, &c., et si non, de bonis propriis*. [Rule 10.]

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Form 246.

11. Where a defendant admits his representative character and the plaintiff's demand, and that he is chargeable with any sum in respect of assets, he shall pay such sum into court, subject to the rules relating to payment into court in other cases. [Rule 11.]

Payment  
into court  
on defend-  
ant's ad-  
mission of  
demand  
and of  
assets.

12. In actions against executors or administrators for which provision is not hereinbefore specially made, if the defendant fails as to any of his defences, the judgment shall, unless the court otherwise orders, be for the plaintiff as to his costs of disproving such defence, and such costs shall be levied *de bonis testatoris, si, &c., et si non, de bonis propriis*. [Rule 12.]

Judgment  
in other  
cases.

## ORDER XXXI.

ORDER  
XXXI.

### NEW TRIAL.

1. An application for a new trial, or to set aside proceedings, may be made and determined on the day of trial, if both parties are present, or such application may be made at the first court held next after the expiration of twelve clear days from such day of trial : Provided that the intended applicant shall, seven clear days at least before the holding of such court, deliver to the registrar at his office, and also give to the opposite party by serving the same personally on such party, or by leaving the same at his residence or place of business, a notice in writing stating that such an application is intended to be made at such court, and setting forth shortly the

Applica-  
tion for  
new trial.

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XXXI.

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51 & 52  
Vict. c. 43.  
s. 91.

grounds of such intended application ; but such notice shall not operate as a stay of proceedings unless the judge otherwise orders ; and if any money paid into court under any execution or order in the action has not been paid out at the time when such notice in writing is given to the registrar, the registrar shall retain the same to abide the event of such application, or until the judge shall otherwise order ; and if no such application is made, the money shall, if required, be paid over to the party in whose favour the order was made, unless the judge otherwise orders ; and if such notice is not given in manner aforesaid, or such application is not made at the court mentioned in the notice, no application for a new trial or to set aside proceedings shall be subsequently made, unless by leave of the judge, and on such terms as he may think fit : Provided that this rule shall not apply to cases falling within the provisions of section ninety-one of the Act. [Rule 1a, Feb. 1892.]

Judge may  
direct new  
trial to be  
had with  
jury.

2. The judge may, in his discretion, make it a condition of granting a new trial that it shall take place with a jury, although the former trial did not take place with a jury. [Rule 2.]

ORDER  
XXXII.

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ORDER XXXII.

APPEALS.

Appeals.  
47 & 48  
Vict. c. 61.  
ss. 23, 24.

1. Appeals shall be brought in accordance with the provisions of the Rules of the Supreme Court, made under the Supreme Court of Judicature Act, 1884. [Rule 1.]

Judgment  
of Court of  
Appeal  
to be de-  
posited.

2. When the Court of Appeal has pronounced judgment, either party may deposit the same, or an office copy thereof, with the registrar of the county court, and upon being so deposited such judgment shall be filed and may be enforced as if it had been given by the county court. [Rule 2.]

New trial.

3. A new trial in pursuance of an order of the Court of Appeal shall be entered for trial at the first county court which shall be held next after twelve clear days from the time when such order or office copy thereof has been deposited as aforesaid, unless the parties agree that it shall take place sooner, or the judge otherwise orders ;

and it shall be conducted in the same manner as any new trial granted by the county court itself. [Rule 3.]

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4. If the order of the Court of Appeal be that judgment shall be entered for either party, then such judgment shall be entered accordingly, and the successful party shall be at liberty to proceed on such judgment as on a judgment of the county court. [Rule 4.]

Proceed-  
ings on  
judgment  
of Court of  
Appeal.

### ORDER XXXIII.

ORDER  
XXXIII.

#### ACTIONS OR MATTERS REMITTED FROM OR TRANSFERRED TO THE HIGH COURT.

1. Where by order of the High Court any action or matter is remitted or transferred to a county court, the plaintiff shall lodge with the registrar the order, or a duplicate thereof, and the writ, together with the pleadings, affidavits, and other documents filed in the High Court, or copies thereof, and also a statement of the names and addresses of the several parties to the action or matter, and their solicitors, if any, and (if no statement of claim has been delivered in the High Court) a concise statement of the particulars of claim, such as would be required upon entering a plaint; and the registrar shall thereupon enter the action or matter for trial, and give notice to the parties of the day appointed for such trial, by post or otherwise, ten clear days at least before such day, and shall annex to the notice to the defendant a copy of the particulars. [Order XXXIII., Rule 1.]

Where  
action or  
matter  
remitted  
from High  
Court.

Forms 280,  
282.

Forms 281,  
283.

2. The registrar shall forthwith indorse on the order or duplicate thereof the date on which the same was lodged, and file the same, and the action or matter shall proceed in all things as if it were an ordinary action in the court. No notice of defence under Order X. shall be required where a statement of defence has been delivered in the High Court. [Rule 2.]

Order to be  
filed.

Proceed-  
ings in  
county  
court.

3. Upon being served with a notice of trial under Rule 1 of this Order, a defendant shall proceed in all things in the same way as if the action had been brought in the county court, and the notice so served upon him was an ordinary summons. [Rule 3.]

Defendant  
to proceed  
as if action  
originally  
brought in  
county  
court.

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XXXIII.**

Special  
notice in  
action for  
libel or  
slander.  
6 & 7 Vict.  
c. 96. ss. 1, 2.  
Forms 86,  
87.

Transfer of  
equitable  
action or  
matter to  
Chancery  
Division  
under 51  
& 52 Vict.  
c. 43. ss.  
67, 68, 70.  
Form 331.

4. Where in any action for libel or slander remitted under section sixty-six of the Act to be tried in a county court, the defendant intends to avail himself of the provisions of sections one and two of the Libel Act, 1843, he shall give notice in writing of such intention to the registrar five clear days at least before the day appointed for the trial of the action. [Rule 4.]

5. If during the progress of any action or matter under section sixty-seven or section seventy of the Act, or of any other action or matter commenced under the equitable jurisdiction of the court, it is made to appear that the subject matter of the action or matter exceeds the limit in point of amount to which the jurisdiction of the court is limited, the judge if requested may forthwith make an order for the transfer of the action or matter to the Chancery Division of the High Court, but if not so requested the order shall not be made before fifteen days at least; and the registrar shall make and file a copy of such order, and shall transmit the order, by post or otherwise, to the proper officer of the Chancery Division of the High Court, and shall also send notice, by post or otherwise, of the fact to all parties and persons entitled to be served with a copy of the order. [Rule 5.]

Report by  
registrar, and  
proceedings,  
where limit  
of jurisdic-  
tion in equit-  
able action or  
matter found  
to be  
exceeded.

51 & 52 Vict.  
c. 43. ss. 67,  
68, 70.  
Form 331.

6. If during the progress of taking any accounts or making any inquiries in any action or matter under section sixty-seven or section seventy of the Act, or of any other action or matter commenced under the equitable jurisdiction of the court, it appears to the registrar that the subject matter of the action or matter exceeds the limit in point of amount to which the jurisdiction of the court is limited, he may if he thinks fit proceed with and complete the particular account or inquiry, but he shall at the next sitting of the court present a certificate of the state of the proceedings in the action or matter, and if the judge is of opinion that such excess exists, he shall make an order of transfer as under the last preceding rule. [Rule 6.]

Trans-  
mission of  
documents,  
&c. to High

7. Where any order is made by the High Court of Justice or any Division or judge thereof for the transfer of any action or matter from a county court to the High Court under section ninety of



the Supreme Court of Judicature Act, 1873, or under section one hundred and twenty-six of the Act, or where an order is made by the judge under section sixty-eight of the Act, and Rules 5 and 6 of this Order, then, subject to such order, the record in such proceeding shall be transmitted by the registrar in the following manner. The registrar shall make and certify under his hand office copies of all entries of record in the books of the court, and shall forthwith transmit by post or otherwise to the proper officer of the High Court such copies, together with all documents filed in the action or matter, and also, where the proceedings have been transferred from a county court, the order of such court. Such copies and the cost of transmission shall be paid for in the first instance by the party on whose application the transfer has been made, unless the transfer has been made by the judge under Rule 5 or Rule 6 of this Order without any application to transfer being made to him, in which case such copies and the costs of transmission shall be paid for in the first instance by the plaintiff in the action or matter; and the registrar may require deposit of the cost of making such copies and transmission before making or transmitting the same; but such payment shall be without prejudice to any question as to the party by whom such costs are ultimately to be borne. [Rule 7.]

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XXXIII.  
—  
Court by  
registrar  
after order  
of transfer.  
36 & 37  
Vict. c. 66.  
s. 90; 51 &  
52 Vict. c.  
43. ss. 68,  
126. .

8. Where any action or matter is transferred under section sixty-nine of the Act to a county court, the registrar shall forthwith apply to the judge for directions as to the further steps in the action or matter; and thereupon the judge may give such directions for carrying on the action or matter as he may think fit, or he may appoint a time to hear and determine any matters in such action or matter, and direct the registrar to summon all parties to appear on the day so appointed. And the judge may also, if he thinks fit, order the registrar to give notice to the parties to the action or matter, or any of them, that the order of transfer has been made.

Registrar  
to apply to  
judge for  
directions  
after trans-  
fer from  
High Court  
under  
51 & 52  
Vict. c. 43.  
s. 69.  
[Rule 8.]

9. Where a proceeding by way of interpleader has been transferred to a county court under the powers given by section seventeen of the Supreme Court of Judicature Act, 1884, the claimant shall within the time (if any) limited by the order transferring the proceeding, or if no time is so limited, then within seven days from the

Claimant  
to lodge  
order of  
High Court  
transfer-  
ring inter-  
pleader

**ORDER  
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proceed-  
ing under  
47 & 48  
Vict. c. 61.  
s. 17.  
Form 284.

date of such order, lodge with the registrar the order transferring the proceeding, or a duplicate or copy thereof, under the seal of the High Court, together with office copies of all affidavits filed on the application to the High Court, and a copy of the issue, if any, directed to be delivered between the parties by any order of the High Court, and also a statement in writing setting forth the names and addresses of the several parties to such proceeding, and their solicitors, if any, and stating concisely the nature of the proceeding transferred, together with a request to enter the same for hearing. If the claimant fails to lodge such documents and request within the time limited as aforesaid, any other party to the proceeding, or the sheriff, may lodge the same. The registrar shall thereupon enter the proceeding for hearing, and shall give notice of the day, time, and place for the hearing of the proceeding to the parties, and where the order is made on an interpleader summons issued at the instance of the sheriff, to the London agent of the under-sheriff, by post or otherwise, ten clear days at least before such day, unless any shorter notice is directed in the order transferring the proceeding, or by the judge or registrar as hereinafter provided. [Rule 9 (1), May, 1899.]

Entry for  
hearing.  
Form 285.

Claimant to  
lodge two  
copies of  
particulars  
and  
grounds  
of claim.  
Form 211.

10. Where the order is made on an interpleader summons issued at the instance of the sheriff, the claimant shall five clear days at least before the day fixed for the hearing of the proceeding (unless such time is reduced as hereinafter provided), lodge with the registrar two copies of the particulars of any goods or chattels alleged to be the property of the claimant, and of the grounds of his claim; and the registrar shall forthwith send by post to the execution creditor one of the copies of such particulars: Provided that by consent of all parties, or without such consent if the judge so directs, the interpleader claim may be tried, although this rule has not been complied with. [Rule 9a (1), May, 1899.]

Damages  
not to be  
claimed.

11. No claim for damages shall be allowed in any such proceeding. [Rule 9b, April, 1895.]

Mode of  
trial of in-  
terpleader  
transferred

12. Any proceeding by way of interpleader transferred from the High Court to a county court shall be tried in such manner and under such conditions as may be prescribed by the order directing such

transfer. In the event of no directions as to the manner and conditions of trial being given in such order, any of the parties to the proceeding (or the sheriff, where the order is made on an interpleader summons issued at his instance,) may apply to the court to which the proceeding is transferred for directions as to the mode of trial, or as to any proceeding with reference to the property seized ; and subject to any such directions the proceeding shall be tried by the judge without a jury, and the ordinary procedure on the trial of an action shall apply. [Rule 10a (1), May, 1899.]

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from High  
Court.

47 & 48  
Vict. c. 61.  
s. 17.

13. (1.) In particular, where the order directing such transfer directs the sheriff to withdraw from possession on payment of any sum by the claimant, and in default of such payment to sell the goods seized, but provides that such directions for sale shall be subject to any order which may before the goods are sold be made by the county court, directing the sheriff to remain in possession of the goods or to hand over possession thereof to the high bailiff of the county court, any party to the proceeding, or the sheriff, may, on notice to the other parties to the proceeding, and (where notice is given by one of the parties) to the London agent of the under-sheriff, apply to the court under Rule 11 of Order XII to postpone the sale, and to expedite the hearing of the proceeding ; and the court may thereupon order the sheriff to remain in possession of the goods until the hearing, or to hand over possession thereof to the high bailiff of the court, instead of proceeding to a sale, upon such terms as to possession money or other charges as may be prescribed by the order directing the transfer, or, if no such terms are prescribed, upon such terms as may be just and reasonable ; and the court may also expedite the hearing.

Provisions  
for interim  
custody of  
goods, and  
for exped-  
iting  
hearing.

(2.) For the purpose of expediting the hearing of any such proceeding as aforesaid, the following provisions shall have effect :

- (a.) The court may fix an early day for the hearing, and may for that purpose reduce the length of notice of hearing required by Rule 9 of this Order, and the time before the hearing fixed by Rule 10 for the filing of particulars :
- (b.) The judge may also order the hearing to take place at any convenient court of which he is the judge :

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(c.) On the day, time, and place for the hearing being fixed, the registrar of the court in which the proceeding is pending shall forthwith give notice thereof to the parties in accordance with Rule 9, together with notice of the time within which particulars are to be filed.

(d.) Where the hearing is to take place at another court, the registrar of the court in which the proceeding is pending shall forthwith send notice to the registrar of such other court that the judge has ordered the hearing to take place there; and he shall in sufficient time before the hearing transmit the papers to the registrar of the court at which the hearing is to take place, who shall act at the hearing for such first-mentioned registrar, and shall after the hearing return the papers to him, with a minute of the order made; and such order shall be settled, sealed, filed, entered, and proceeded on in the court in which the proceeding is pending, in like manner as if the hearing had taken place there. [Rule 10aa, May, 1899.]

Sheriff's  
charges.

[Rule 11a,  
May, 1899.]

14. No order made by the court in any proceeding by way of interpleader transferred from the High Court shall prejudice or affect the rights of the sheriff to any proper charges; and the judge shall make such orders as may be just with respect to any such charges; but such charges shall be ultimately borne, as between the parties to the proceeding, in such manner as the judge shall direct.

High  
bailiff's  
charges.

15. Where any goods are handed over to the high bailiff in pursuance of any such order as aforesaid, he shall hold or dispose of the same in accordance with the directions contained in such order, or in any subsequent order made in the proceeding; and he shall be allowed for keeping possession of such goods such reasonable charges, not exceeding those which might be made by the sheriff, as the judge may order, and for a sale of such goods, if he is directed to sell the same, the same charges as are allowed on a sale under an execution issued by the county court; and such charges shall be ultimately borne, as between the parties to the proceeding, in such manner as the judge shall direct. [Rule 11b, May, 1899.]

16. Where any proceeding by way of interpleader, or any action or matter pending in the Chancery Division, is ordered to be transferred from the High Court to a county court, and no order to the contrary has been made in the High Court, the costs of the order and of the proceedings prior thereto shall be in the discretion of the judge of the county court, and shall be taxed in the county court upon such scale, whether of the High Court or the county court, as the judge may think just. The costs in the county court shall be in the discretion of the judge, and shall be taxed on such county court scale as he may think just. [Rule 10*b*, July, 1892.]
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—  
Costs of interpleader and Chancery proceedings transferred from High Court. 47 & 48 Vict. c. 61. s. 17. 51 & 52 Vict. c. 43. s. 69.
17. Where any proceeding by way of interpleader is transferred from the High Court to a county court, the judge may order that the sheriff shall have his costs of the interpleader proceeding in the High Court, and may direct by which party the said costs shall be paid. [Rule 11.]
- Sheriff's costs.
18. The order made upon a proceeding by way of interpleader transferred from the High Court to a county court shall contain directions as to how any money paid into court or in the hands of the sheriff is to be disposed of, and an order on the sheriff to deal with any money in his hands accordingly. A minute of every such order shall be entered in the minute book, but no order need be drawn up or served unless any of the parties require it, or the court otherwise orders. The order, if drawn up, shall be according to such one of the forms provided for orders on the hearing of interpleader proceedings commenced in the county court as shall be applicable to the case, with such variations as the case may require. [Substituted for Rule 10*c*, April, 1895.]
- Order on remitted interpleader  
  
Forms 213, 214.
19. Where the registrar of the court to which any action, matter, or proceeding is transferred from the High Court, or a partner or clerk of such registrar, has acted as solicitor for any party to such action, matter, or proceeding in the High Court, the judge may order such action, matter, or proceeding to be transferred to some other court under section eighty-five of the Act; and the provisions of Order VIII., Rule 9, shall apply to any application for such transfer. [Rule 12, June, 1896.]
- Transfer of action, &c. remitted from High Court to another court, where registrar has acted for any party in High Court. 51 & 52 Vict. c. 43. s. 58.

ORDER  
XXXIV.

ORDER XXXIV.

REPLEVIN.

No other  
cause of  
action to  
be joined.  
Particu-  
lars.

1. In actions of replevin no other cause of action shall be joined in the summons. [Rule 1.]

2. On entering a plaint in replevin, the plaintiff shall specify and describe in a statement of particulars the cattle or the several goods and chattels taken, and the distress or other taking of which he complains. [Rule 2.]

Mode of  
trial.  
Forms 151,  
290, 291.

3. An action of replevin shall be tried in the same way as other actions, and the judgment therein, in ordinary cases, whether for plaintiff or defendant, shall be, unless otherwise ordered, according to the forms in the Appendix. [Rule 3.]

Where de-  
fendant  
succeeds in  
action  
where dis-  
tress is for  
rent, &c.  
Form 290.

4. Where the distress is for rent, or for any other sum of money for which a distress may be lawfully taken, and the defendant succeeds in the action, if the defendant so requires, the judge shall, if the action is tried without a jury, and the jury shall, if the action is tried with a jury, find the value of the goods distrained, and if the value is less than the amount of rent or other sum of money in arrear, judgment shall be given for the amount of such value, but if the amount of the rent or such other sum of money in arrear be less than the value so found, judgment shall be given for the amount of such rent or other sum of money, and such judgment may be enforced in the same manner as any other judgment of the court. [Rule 4.]

Where de-  
fendant en-  
titled to a  
return in  
damage  
feasant.  
Form 291.

5. Where the distress is for damage feasant, and the defendant is entitled to judgment for a return, if the plaintiff so requires, the judge shall, if the action is tried without a jury, and the jury shall, if the action is tried with a jury, find the amount of the damage sustained by the defendant, and judgment shall then be given in favour of the defendant, in the alternative, for a return, or for the amount of the damage so found. [Rule 5.]

Where  
defendant  
succeeds  
in other  
cases.

6. In all cases of replevin, other than those arising out of a seizure by way of distress, where the defendant justifies the taking and proves his case, the judgment for the defendant shall be for a return of the goods, with or without costs. [Rule 6.]

## ORDER XXXV.

ORDER  
XXXV.

## THE SUMMARY PROCEDURE ON BILLS OF EXCHANGE ACT, 1855.

1. Particulars of demand shall be filed on the entry of a plaint under the Summary Procedure on Bills of Exchange Act, 1855, and shall be according to the form in the Appendix, *mutatis mutandis*. [Order XXXV., Rule 4, Feb., 1892.]

Particulars  
of claim  
under 18 &  
19 Vict.  
c. 67  
Form 26.

2. Where under the said Act a defendant applies for leave to defend, he shall satisfy the court, by affidavit, that good grounds exist for granting leave to defend the action, and shall file with the registrar such affidavit, together with a copy thereof, and shall, if required so to do by the court, give security according to the provisions of section two of the said Act. [Rule 1.]

Leave to  
defend  
under 18 &  
19 Vict.  
c. 67. s. 2

3. Where leave is given to defend, the registrar shall appoint the action to be heard at the first convenient sitting of the court to be held after such leave is granted, and shall send to the plaintiff notice thereof according to the form in the Appendix, together with a copy of the affidavit made by the defendant, and shall also send to the defendant by post a notice according to the form in the Appendix.

Notice of  
trial to be  
given.  
[Rule 2.]  
Form 40.  
Form 41.

4. Any application under section three of the said Act to set aside the judgment shall be made to the judge; but until the judge can hear the same, execution shall be stayed, upon the defendant giving security to abide the decision of the judge. [Rule 3.]

Applica-  
tions under  
18 & 19  
Vict. c. 67.  
s. 3.

## ORDER XXXVI.

ORDER  
XXXVI.

## REGISTRY OF JUDGMENTS.

1. A return of every judgment entered in the City of London Court for the sum of ten pounds and upwards shall be transmitted by the registrar to the Registrar of County Courts Judgments in London, in the same manner as returns of judgments entered in a county court are now transmitted. [Rule 1.]

Return of  
judgments  
in City of  
London  
Court.

ORDER  
XXXVI.

Note of  
order in  
Admiralty  
or equity  
to be sent.

2. A note of every judgment or order in an Admiralty action, or in any action or matter under section sixty-seven or seventy of the Act, or any other action or matter commenced under the equitable jurisdiction of the court, shall within ten days of the making thereof be transmitted by the registrar to the Registrar of the County Courts Judgments in London, who shall register the same as heretofore. [Rule 2, revised.]

ORDER  
XXXVII.

ORDER XXXVII.

FUNDS.

Payment  
into court  
in equit-  
able actions  
or matters.  
51 & 52  
Vict. c. 43.  
ss. 67, 69.

1. Where a party is directed to pay money into court in any action or matter mentioned in sections sixty-seven and sixty-nine of the Act or in any other action or matter commenced under the equitable jurisdiction of the court, he shall attend and pay the same into the office of the registrar, and obtain a receipt for the amount ; and the registrar shall, unless otherwise ordered by the judge, pay the same into a post office savings bank, in accordance with the provisions of section seventy-one of the Act. [Order XXXVII., Rule 1 ; words in brackets new.]

Entry of  
payments.

Payment  
of interest.

2. The registrar shall enter in the "Cash Book" and "Ledger for Equitable Proceedings" any money so paid, to the account of the action or matter in which it is paid ; and where the interest of any fund paid into a post office savings bank has been directed to be paid to any person, the registrar shall pay the same half-yearly out of any general moneys in his hands. [Rule 2.]

Mode of  
withdrawing  
moneys  
from post  
office sav-  
ings bank.  
Form 343.

3. The registrar, whenever he is directed by order to draw out of a post office savings bank any fund or part of any fund standing to the account of any action or matter, shall send a letter to the Treasury according to the form in the Appendix. [Rule 3.]

Reinvest-  
ment of in-  
terest on  
stocks in  
names of

4. Where money has before the 1st day of January 1868 been invested in stocks, and the investment is in the names of the treasurer and registrar alone, the registrar shall from time to time receive the dividends of all the funds so standing in their names, and shall



re-invest the dividends in the same names, except where and so far as the court otherwise directs, and shall apportion the amount so re-invested in his books to the same accounts as the original investments. [Rule 4.]

ORDER  
XXXVII.

—  
treasurer  
and  
registrar.

5. Where any married woman is interested in any principal money, stocks, shares, or securities exceeding in value two hundred pounds, or ten pounds in annual payments, and is not entitled to the same as her separate property, she shall be examined by the judge apart from her husband to ascertain whether the same shall be paid to him or made the subject matter of a settlement; and if the judge thinks that a settlement should be made, and in all cases where the married woman is under age, the judge shall by his judgment make such settlement accordingly: Provided always, that the judge may, if he thinks fit, order such settlement to be prepared by counsel and settled by the judge. [Rule 5.]

Examina-  
tion of  
married  
woman  
interested  
in fund.

Settle-  
ment.

6. Where in any action, matter, or proceeding the estate of a deceased person who has died intestate is entitled to a fund or to a share of a fund in court not exceeding one hundred pounds, and it is proved to the satisfaction of the judge that no administration has been taken out to such deceased person, and that his assets do not exceed the value of one hundred pounds, including the amount of the fund or share to which the estate of such deceased person is entitled, the judge may direct that such fund or share shall be paid, transferred, or delivered to the person who, being a widower, widow, child, father, mother, brother, or sister of the deceased, would be entitled to take out administration to the estate of such deceased person. [New; R.S.C. Order XXII., Rule 18A, July, 1902.]

Payment  
of sum due  
to deceased  
intestate,  
not exceed-  
ing 100*l.* to  
person  
entitled  
to take out  
adminis-  
tration.

### ORDER XXXVIII.

ORDER  
XXXVIII.

THE COUNTY COURTS ACT, 1883, SECTIONS 67 AND 70. THE SETTLED LAND ACTS, 1882 TO 1890. THE TRUSTEE ACT, 1893.

1. Proceedings under the fifth and sixth sub-sections of section sixty-seven of the Act, or the Trustee Act, 1893 (other than proceedings under section forty-two of the last-mentioned Act),

Proceed-  
ings by  
petition.

**ORDER  
XXXVIII.**

51 & 52  
Vict. c. 43.  
s. 67, (5, 6).  
56 & 57  
Vict. c. 63.  
45 & 46  
Vict. c. 38.

or under the Settled Land Acts, 1882 to 1890, shall be commenced by filing a petition, intituled in the matter of the Act under which the proceeding is taken, and of the trust or settlement, with as many copies of the petition as there are respondents to be served. [Substituted for Order XXXVIII., Rule 1.]

Statement  
of persons  
to be served  
with  
petition.

2. At the foot of every petition presented to the court, and of every copy thereof, a statement shall be made of the persons, if any, intended to be served therewith ; and if no person is intended to be served, a statement to that effect shall be made at the foot of the petition and of every copy thereof.

[New ; R.S.C. Order LII., Rule 16.]

Registrar  
to issue  
notices of  
day of  
hearing of  
petition.  
Form 341.

3. Upon the filing of a petition, the registrar shall issue the copies under the seal of the court to the bailiff for service upon the respective persons to be served, together with a notice, signed by the registrar himself and under the seal of the court, stating the day and hour on which the petition will be heard, and that if they do not attend either in person or by their solicitors such order will be made and proceedings taken as the judge may think just and expedient. [Rule 2.]

Service of  
petitions  
and  
notices.

4. The bailiff shall, ten days at least before the hearing, serve all copies of such petitions and notices in accordance with the rules as to the service of ordinary summonses. [Substituted for Rule 3.]

Facts to be  
proved by  
affidavit.

5. Upon the hearing of any petition or application under this Order, unless the judge otherwise directs, the facts relied upon in support of or in opposition thereto shall be proved by affidavit. [Rule 4.]

Judge may  
direct  
inquiries.

6. The judge may refer any matter to the registrar to make inquiries and to report to him the result of such inquiries. [Rule 5.]

All parties  
may apply.

7. In every final judgment or order made upon any petition or application under this Order liberty shall be given to all parties to apply. [Rule 6.]

8. Where the judge makes an order upon a petition or application under this Order, the registrar shall, as soon thereafter as conveniently may be, draw up, seal, and file such order. [Rule 7.]

ORDER  
XXXVIII.

Registrar  
to draw up  
order.

9. Any person desiring to pay money, transfer stock, or deposit security in trust to attend the orders of any court under subsection five of section sixty-seven or under section seventy of the Act, or section forty-two of the Trustee Act, 1893, shall file with the registrar an affidavit, intituled in the matter of the Act, and of the particular trust, and setting forth :

Payment  
into court  
under 51 &  
52 Vict.  
c. 43. ss. 67  
(5), 70.  
56 & 57  
Vict. c. 63.  
s. 42.

- (a.) His own name, address, and description :
- (b.) The place where he is to be served with any petition or summons, or any notice of any proceeding or order of the court relating to the trust fund :
- (c.) The amount of money, stock, or security which he proposes to pay, transfer, or deposit in trust to attend the orders of the court :
- (d.) A short description of the trust, or of the nature and contents of the instrument creating it :
- (e.) The names, addresses, and descriptions of the persons interested in or entitled to, or claiming to be interested in or entitled to the fund, to the best of the knowledge and belief of the trustee :
- (f.) The submission of the trustee to answer all such inquiries relating to the application of the money or stock paid in or transferred or security deposited, or otherwise, as the court may think proper to make or direct. [Rule 8.]

10. The affidavit in the last preceding rule mentioned may be according to the form in the Appendix, with such variations as each particular case may require. [Rule 9.]

Affidavit.  
Form 333.

11. Where it is desired to retain any sum of money for costs incurred in the payment of money into court, or in any matter connected with the trust prior to such payment, a bill of costs shall be filed and such sum only shall be retained as may be allowed by the registrar on taxation. [Rule 10.]

Costs  
deducted  
on pay-  
ment into  
court to be  
taxed.

ORDER  
XXXVIII.

Evidence  
of trust to  
be left.

12. Probate of the will, or the original instrument or document, or such evidence as the registrar may require as to the instrument creating the trust, shall be left with the registrar for such period as he may reasonably require. [Rule 11.]

Memoran-  
dum of  
filing to be  
indorsed.

13. Immediately on the receipt by the registrar of the affidavit he shall indorse thereon a memorandum of the day on which the same was filed ; and when such affidavit has been so indorsed, it shall be taken for all purposes to have been duly filed on the date so indorsed thereon. [Rule 12.]

Evidence  
of trust to  
be com-  
pared with  
statements  
in affidavit.

14. The registrar shall compare the statements in the affidavit with the probate or other instrument deposited with him, and shall indorse on the affidavit a memorandum that he has made such comparison, and shall add to such indorsement any memorandum as to any matters which may be omitted in the affidavit and which he may think material. [Rule 13.]

Certificate  
of filing  
may be  
given.  
Forms 334,  
335.

15. The persons filing the affidavit, or any of them, may apply to the registrar to give to them a certificate intituled in the matter of the Act and of the particular trust, and under the seal of the court, certifying that the affidavit has been filed, and such certificate may be according to one or other of the forms in the Appendix, with such variations as each particular case may require. [Rule 14.]

Money  
may be  
paid into  
post office  
savings  
bank.  
51 & 52  
Vict. c. 43.  
s. 70.

16. In the case of money, the persons filing the affidavit, or any of them, may upon the receipt of the certificate in the last preceding rule mentioned pay the money into a post office savings bank under section seventy of the Act, and obtain from the officer of the bank a receipt for the same, and shall forthwith leave the receipt with the registrar, who shall immediately indorse thereon a memorandum of the day on which the same was received by him ; and when such receipt has been so indorsed, it shall be taken for all purposes to have been duly recorded on the date so indorsed thereon. [Rule 15.]

Transfer of  
stock.

17. In the case of stock, the persons filing the affidavit, or any of them, may upon the receipt of the before-mentioned certificate in Rule 15 mentioned transfer the stock into the names of the treasurer and registrar of the court mentioned in the certificate, in trust to

attend the orders of the court, and shall forthwith leave the transfer ticket with the registrar, who shall immediately indorse thereon a memorandum of the day on which the same was received by him ; and when such transfer ticket has been so indorsed, it shall be taken for all purposes to have been duly recorded on the date so indorsed thereon. [Rule 16.]

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XXXVIII.

18. In the case of security, the person filing the affidavit may forthwith deposit the security with the registrar in the name of the treasurer and registrar, in trust to attend the orders of the court, and the registrar shall immediately indorse on the affidavit a memorandum of the day on which the security was deposited with him. [Rule 17.]

Deposit of  
security.

19. The registrar shall within twenty-four hours after the deposit of the security as in the last preceding rule mentioned send notice thereof by post to the treasurer of the court, stating therein the particulars of the deposit, which notice may be according to the form in the Appendix, with such variations as each particular case may require. [Rule 18.]

Notice of  
deposit of  
security.  
Form 338.

20. Where there is a court in which there is not a treasurer, the transfer or deposit shall be made into the names of the registrar and the superintendent of the County Court Department of the Treasury for the time being. [Rule 19.]

Transfer or  
deposit  
where no  
treasurer.

21. Immediately after the recording of the postmaster's receipt or of the transfer ticket, or of the deposit of the security, the registrar shall give to the persons paying in the money, or transferring the stock or depositing the security, an acknowledgment or certificate of such payment or transfer or deposit, and such acknowledgment or certificate may be according to the form in the Appendix, with such variations as each particular case may require. [Rule 20.]

Certificate  
of pay-  
ment,  
transfer, or  
deposit to  
be given:

Forms 336,  
337

22. Immediately after the recording of the postmaster's receipt or of the transfer ticket, or the giving of a certificate of deposit of security, the registrar shall cause an entry to be made in the book heretofore called the Suits and Proceedings in Equity Book of the title of the particular trust, and the amount of money paid or stock transferred, or security deposited, and the names and addresses of the

Entries to  
be made in  
Equity  
Proceed-  
ings Book.

**ORDER  
XXXVIII.**

Notice to  
parties  
interested.

Form 339.

persons making such payment, transfer, or deposit, and the names of all persons stated in the affidavit to be or to claim to be interested in or entitled to such money, stock, or security, and their addresses and descriptions, as given in the affidavit; and the registrar shall forthwith send by post to each of such last-mentioned persons, to the address given in the affidavit, a notice of the said payment, transfer, or deposit, which notice shall be under the seal of the court, and may be according to the form in the Appendix, with such variations as each particular case may require. [Rule 21.]

Petition by  
person in-  
terested in  
funds in  
court.

Form 340.

23. Any person entitled to or claiming to be interested in any fund in court, or (if need be, but not otherwise,) the trustee, who desires the directions of the court as to the investment, payment out, or distribution of the whole or any part of the fund or the income thereof, may file a petition according to the form in the Appendix, stating therein the substance of the order which he desires to obtain, and praying for the order and direction of the judge with respect to the fund so paid into court, and the rights of all persons thereto. The petitioner shall file with such petition a copy for every respondent to be served, and a copy for the use of the judge; and the registrar shall forward such last mentioned copy, with an office copy of the affidavit filed under Rule 9 of this Order (to be made at the costs of the petitioner), to the judge; and, subject to the following rules, Rules 2 to 8 of this Order shall apply to the service of and proceedings on such petition. [Rule 22, revised.]

Persons to  
be served.

24. Where the application relates to the capital of the fund in court, the trustee and all persons interested in such fund shall be served with a copy of the petition, unless the judge otherwise directs; and where the application relates to the income only of the trust fund, the trustee only shall be served with the petition, unless the judge otherwise directs. [Rule 23.]

When  
trustee,  
may be  
ordered to  
pay costs.

25. Where a trustee avails himself of the statutory provisions referred to in Rule 9 of this Order without sufficient reason, the judge may direct such trustee to bear his own costs, and to pay the costs of any other persons, or to bear and pay any part of such respective costs, as the judge may think fit. [Rule 24.]

26. If the person filing the petition relies only on the facts stated in the affidavit filed by the trustee, it shall be sufficient for the person filing such petition to state on oath at the hearing that he believes such facts to be true, unless the judge requires any further evidence to be adduced. [Rule 25.]

ORDER  
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Where facts stated in affidavit only are relied on.

27. Upon the hearing the judge shall, if the application relates to the capital of the fund in court, require proof of all facts which are necessary to be ascertained in order not only to grant the specific relief prayed by the petition, but to declare and decide the rights of all parties in or to the fund in court, and he shall make a final order declaring what such rights are, and make such order as to dealing with the whole of the fund as would be made upon a final judgment in an action for administration. [Rule 26.]

Rights of all parties to be declared.

Form 342

28. Where on the petition the petitioner relies only on the facts stated in the affidavit of the trustee, it shall not be necessary for the trustee to appear on the hearing ; and if he does so appear, his costs shall not be allowed out of the fund unless the judge certifies that it was right and necessary for him to appear. [Rule 27.]

When trustee need not appear.

29. The registrar shall pay to any person to whom money is found to be due by the final order the sum so found due upon his applying for the same and proving his identity to the satisfaction of the registrar ; and where any such person is an infant at the time of the making of the final order, upon proof that he has attained the age of twenty-one years. [Rule 28.]

Payment to parties found entitled, and to infants on coming of age.

30. The judge at the instance of any person interested shall inquire into any prolixity, and as to any irrelevant matter in any petition or affidavit, and as to any unnecessary expense thereby incurred, and may make such order in reference thereto as the justice of the case may require. [Rule 29.]

Where there is prolixity or irrelevant matter.

31. Every petition for dealing with money or securities in court chargeable with any duty payable to the Revenue, or with the dividends on any such securities, shall contain a statement whether such duty has or has not been paid.

Petition to state whether duty has been paid or not.

[New ; R.S.C. Order XXII., Rule 12A.]

ORDER  
XXXIX.

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ORDER XXXIX.

ADMIRALTY ACTIONS.

*Sittings of the Court.*

Where  
action may  
be tried.

1. The judge may try or partly try any Admiralty action at any place within the Admiralty district of the court. [Order XXXIX B. Rule 1.]

Under-  
taking for  
expenses  
of trial  
at place  
where  
court is  
not held.  
Form 369.

2. Where application is made to the judge for the trial or part trial of an Admiralty action at a place in which a court is not held, the party making the application shall file a præcipe undertaking to provide at his expense a place to the satisfaction of the judge in which the action may be tried, and to pay the necessary expenses of the judge and officers attending at such place. [Rule 2.]

Sittings  
of the  
court in  
Admiralty.

3. The days of the sitting of the court for the trial of Admiralty actions shall be those appointed for the transaction of the ordinary general business of the court held in the city or town mentioned in the name of the court, or such other days as the judge may from time to time appoint on the written application of either party.

Special day  
for trial.  
[Rule 3.]

Provided that where, from the detention of a vessel or otherwise, a prompt determination of any action is desirable, a special sitting shall on the application of any party be appointed by the judge at as early a date as possible. Such application shall be made on notice being given to the other party, who shall have the right to be heard.

*Commencement of Action.*

Commencement of  
action.  
Form 368.

4. A plaintiff desiring to commence an Admiralty action shall file a præcipe stating the nature of the action, and, when practicable, his name, address, and description ; and if the proceedings are commenced through a solicitor, the name of the solicitor, and an address within three miles of the office of the registrar at which it shall be sufficient to leave all instruments and documents in the action required to be served upon the party commencing such proceedings, and also stating



the name of the owner or other person against whom the action is instituted, or that the action is instituted against the vessel or other property to which the action relates. [Rule 4.]

ORDER  
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5. When it is not practicable at the time of filing the præcipe to state therein the name of the plaintiff, it shall be sufficient (subject to the right of the defendant to demand his name) to describe the plaintiff as "Owner of the ship or vessel . . ." [Rule 5.]

Plaintiff  
may be  
described  
as owner.

6. In Admiralty actions *in rem*. no further service of a summons than delivery thereof in accordance with Order VII., Rule 12, and no warrant of arrest, shall be required, where a solicitor represents that he is authorised to accept service on behalf of the defendant, and signs a memorandum agreeing to accept service, and undertaking to appear and to put in bail, or to pay money into court in lieu of bail [Rule 6, altered.]

Where  
solicitor  
accepts  
service and  
undertakes  
to appear,  
&c., in  
action  
*in rem*.  
Form 373.

7. A solicitor not entering an appearance or putting in bail or paying money into court in lieu of bail, in pursuance of his written undertaking so to do, shall be liable to attachment. [New ; R.S.C. Order XII., Rule 18.]

Solicitor  
not fulfil-  
ling under-  
taking  
liable to  
attach-  
ment.

8. In an Admiralty action for wages against the owners of a foreign vessel, notice of the commencement of the action shall be given to the consul or vice-consul of the state to which the vessel belongs, if there is one resident within the district of the court, and a copy of the notice shall be annexed to the præcipe. [Rule 7.]

Notice of  
commence-  
ment of  
action to  
be given  
to consul  
in certain  
cases.

### *Particulars and Summons.*

9. A plaintiff desiring to commence an Admiralty action shall file with the præcipe particulars of his claim, with, in an action *in rem*, a copy thereof for service, and, in an action *in personam*, as many copies thereof as there are defendants to be served. If the proceedings are commenced by a solicitor, the particulars must be signed in accordance with Order VI., Rule 9, otherwise the costs of such particulars shall not be allowed. [Rule 8a (1), May, 1899. revised.]

Particu-  
lars.

ORDER  
XXXIX.

Summons.

Forms 370,  
371.

[Rule 8b  
(1), May,  
1899.]

10. Immediately upon the filing of the præcipe the registrar shall enter a plaint and issue a summons according to one or other of the forms in the Appendix, for service by the solicitor if the proceedings have been commenced by a solicitor, or by the bailiff of the court. The particulars shall be annexed to the summons before service, and shall be deemed to be part thereof.

*Arrest.*

Affidavit  
to be filed.

11. Whereafter the commencement of an Admiralty action it is desired to arrest any vessel or property, the plaintiff or defendant counter-claiming shall file an affidavit stating the facts which render it probable that the vessel or property will be removed out of the jurisdiction of the court before the claim or counter-claim is satisfied. It shall not be necessary to show in such affidavit that the vessel or property is likely to be removed immediately. [Rule 9.]

When  
nationality  
of vessel  
to be  
stated.

12. In an Admiralty action for necessities or wages the nationality of the vessel shall be stated in the affidavit. [Rule 10.]

When  
warrant of  
arrest may  
issue.  
Form 372.

13. Where upon the filing of the affidavit the court is satisfied with the evidence, it may issue a warrant in duplicate for the arrest and detention of the vessel or property; and where the court is not satisfied, it may require further evidence to be adduced, and may order the detention of the vessel or property for the purpose of adducing such evidence. [Rule 11.]

When sum-  
mons *in rem*  
may be served  
or warrant of  
arrest  
executed.

14. A summons *in rem* may be served and a warrant of arrest may be executed on Sunday, Good Friday, or Christmas Day, as well as on any other day. [Rule 12.]

*Service of Summons or Warrant.*

Service of  
summons  
or warrant  
of arrest.

15. Service of a summons or execution of a warrant against a vessel, or freight, or cargo on board shall be effected by delivering the summons, or a duplicate of the warrant, to the person who is at the time of service of the summons or execution of the warrant apparently in charge of the vessel or property, or if there is no person

apparently in charge, by nailing or affixing the summons or duplicate warrant on the main mast or on the single mast of the vessel. In other cases the summons must be served personally upon the defendant, unless the court, upon facts duly verified upon affidavit, allows of substituted service. [Rule 13, revised.]

ORDER  
XXXIX.

16. If the cargo has been landed or transhipped, service of a summons or execution of a warrant to arrest the cargo and freight shall be effected by placing the summons or warrant for a short time on the cargo, and afterwards leaving a true copy or duplicate of such summons or warrant on the cargo. [Rule 14.]

Service  
where  
cargo  
landed or  
tran-  
shipped.

17. If the cargo is in the custody of a person who will not permit access to it, service of the summons or warrant may be made upon the custodian. [Rule 15.]

Where  
access to  
cargo  
denied.

18. In cases in which proceedings are commenced under section twenty-one, sub-section 2, of the County Courts Admiralty Jurisdiction Act, 1868, in a county court in the district of which the agent in England of the owner of the vessel or property to which the action relates resides, the summons shall be served personally upon such agent, unless the court, upon facts duly verified upon affidavit, allows of substituted service. [Rule 16.]

Service on  
agent.

31 & 32  
Vict. c. 71.  
s. 21 (2).

### *Appearance in Admiralty Actions.*

19. A defendant desiring to enter an appearance in an action shall file a præcipe, and thereupon an entry of his appearance shall be made in the Admiralty Actions Book. [Rule 17.]

Appear-  
ance.  
Form 374

20. The præcipe shall state, when practicable, the name, address, and description of the party on whose behalf the appearance is entered, and when such appearance is entered by a solicitor, the name of the solicitor, and in either case shall state an address within three miles of the office of the registrar at which it shall be sufficient to leave all instruments and documents in the action required to be served upon the defendant entering the appearance. [Rule 18.]

Contents  
of præcipe.

**ORDER  
XXXIX.**

Præcipe in  
action *in*  
*rem* when  
defend-  
ant's name,  
&c. is not  
known.

21. Where it is not practicable at the time of entering the appearance to state the name, address, and description of the defendant, it shall be sufficient in actions *in rem* (subject to the right of the plaintiff to demand further particulars) to state that the appearance is entered on behalf of the "owners" of the property proceeded against, or on behalf of "the defendant." [Rule 19.]

Interven-  
tion in  
action  
*in rem*.  
Form 374.

22. In an Admiralty action *in rem* any person not named in the summons may intervene by entering an appearance in the action, on filing an affidavit showing that he is interested in the vessel or property, or the fund in court; and any person so intervening shall be deemed to be a defendant. If the interest claimed by such person is not cognisable by the court, any party may apply to the court or to the High Court to have the action transferred to the High Court.

[Rule 20, revised : see R.S.C. Order XII., Rule 24.]

Appear-  
ance on  
arrest of  
vessel, &c.

23. Upon the arrest of any vessel or property an appearance may be entered in the same manner as upon the service of the summons. [Rule 21.]

Notice of  
appear-  
ance.

24. A defendant or other person entering an appearance shall deliver to the registrar so many duplicate copies of the præcipe as there are persons to be served with notice of appearance; and the registrar shall seal such copies and enter thereon the date of sealing, and return them to the person entering the appearance; and such person shall forthwith give notice of appearance to the plaintiff, and in the case of an intervener to all other parties who have appeared, according to the form in the Appendix; and such notice shall be accompanied by a sealed duplicate of the præcipe. Such notice and duplicate shall be served at the address for service of the party to be served, and may be served in accordance with Order LIV., Rules 2 to 4. [New; R.S.C. Order XII., Rules 8, 9.]

Form 374A.

Defen-  
dants  
appearing  
by same  
solicitor.

25. If two or more defendants in the same action appear by the same solicitor and at the same time, the names of all the defendants so appearing shall be inserted in one præcipe. [New; R.S.C. Order XII., Rule 17.]

26. A defendant may appear at any time before final judgment. If he appears at any time after the time limited by the summons for appearance, he shall not, unless the court otherwise orders, be entitled to any further time for any purpose than if he had appeared according to the summons. [New ; R.S.C. Order XII., Rule 22.]

ORDER  
XXXIX.

Time for  
appear-  
ance.

*Statement of Claim. Counterclaim. Defence. Reply. Preliminary Act.*

27. The defendant at the time of entering appearance, or within seven days thereafter, may give notice in writing to the plaintiff to deliver a statement of the circumstances in which his claim arises ; and the plaintiff shall within ten days from the time of receiving such notice, or within such further time as may be allowed by the court, file a concise statement accordingly, and deliver a copy thereof to the defendant. [New.]

Defendant  
may  
require  
statement  
of claim.

28. If the defendant does not require a statement of claim to be delivered, he shall within ten days after appearance, or within such further time as may be allowed by the court, file a concise statement of his defence, set off, or counterclaim (if any), and deliver a copy thereof to the plaintiff. [New.]

Defence,  
set off, or  
counter-  
claim,  
where  
statement  
of claim  
not re-  
quired.

29. If the defendant requires a statement of claim to be delivered, he shall within ten days from the delivery thereof, or within such further time as may be allowed by the court, file a concise statement of his defence, set off, or counterclaim (if any), and deliver a copy thereof to the plaintiff. [New.]

Defence,  
set off, or  
counter-  
claim,  
where  
statement  
of claim  
required.

30. The plaintiff shall within six days from the delivery of the defendant's defence, set off, or counterclaim, or within such further time as may be allowed by the court, file a concise statement of his reply (if any) to such defence, set off, or counterclaim, and deliver a copy thereof to the defendant. [New.]

Reply.

31. Subject to these rules, the rules of the Supreme Court for the time being in force with respect to pleadings and amendment of pleadings shall, with the necessary modifications, apply to every statement of claim, defence, set off, counterclaim, and reply delivered pursuant to these rules. [New.]

Rules as to  
pleadings  
and  
amend-  
ment.

**ORDER  
XXXIX.**

Preliminary Act in actions for damage by collision between vessels.

32. (1.) In actions for damage by collision between vessels, where the amount claimed exceeds twenty pounds, unless the court otherwise orders, the plaintiff shall within seven days after the commencement of the action, and the defendant shall within seven days after appearance, file with the registrar a document to be called a Preliminary Act, which shall contain a statement of the following particulars :—

- (1.) The names of the vessels which came into collision and the names of their masters ;
- (2.) The time of the collision ;
- (3.) The place of the collision ;
- (4.) The direction and force of the wind ;
- (5.) The state of the weather ;
- (6.) The state and force of the tide ;
- (7.) The course and speed of the vessel when the other was first seen ;
- (8.) The lights (if any) carried by her ;
- (9.) The distance and bearing of the other vessel when first seen ;
- (10.) The lights (if any) of the other vessel which were first seen ;
- (11.) Whether any lights of the other vessel, other than those first seen, came into view before the collision ;
- (12.) What measures were taken, and when, to avoid the collision ;
- (13.) The parts of each vessel which first came into contact ;
- (14.) What sound signals (if any), and when, were given ;
- (15.) What sound signals (if any), and when, were heard from the other vessel ;
- (16.) What acts of negligence, or what breach of any navigation rule, bye law, or regulation, was committed by those in charge of the other vessel ;

and, in the case of a defendant :

- (17.) The name of any vessel, other than the plaintiff's vessel, which the defendant alleges to have caused the collision or damage, or with reference to which those in charge of the defendant's vessel had to act.

(2.) Either party may, after (but not before) filing his preliminary act, and after the pleadings (if any) are completed, inspect and obtain office copies of the preliminary act filed by the other party.

ORDER  
XXXIX.

(3.) Where preliminary acts are required, the action shall be tried on such preliminary acts, without pleadings, unless the court orders pleadings to be delivered ; but in such case, if the defendant intends to set up a set off or counterclaim, he shall within ten days after appearance, or within such further time as may be allowed by the court, file a concise statement of his set off or counterclaim, and deliver a copy thereof to the plaintiff ; and if either party intends to rely on the defence of compulsory pilotage, he shall file a notice of such defence, and deliver a copy thereof to the adverse party, in the case of a defendant within the time allowed by this rule for the delivery of a set off or counterclaim, and in the case of a plaintiff within six days from the delivery of the defendant's set off or counterclaim, or within such further time as may be allowed by the court. [New ; see R.S.C. Order XIX., Rule 28 ; County Court Rules, Order XXXIXB., Rule 47.]

### *Interrogatories.*

33. Leave shall not be granted to deliver interrogatories seeking information substantially the same as that which would be disclosed by any pleading or preliminary act, unless the court considers such interrogatories necessary either for disposing fairly of the action or for saving costs. [New.]

Interrogatories.

### *Default of Pleading by Plaintiff.*

34. If the plaintiff when required to deliver a statement of claim or file a preliminary act does not deliver or file the same within the time allowed for that purpose, any defendant who has entered an appearance may at the expiration of that time apply to the judge to dismiss the action with costs for want of prosecution ; and on the hearing of such application the judge may, if no statement of claim or preliminary act has been delivered or filed, order the action to be dismissed accordingly, or may make such other order and on such terms as he shall think just. [New ; R.S.C. Order XXVII., Rule 1.]

Default of pleading by plaintiff

**ORDER  
XXXIX.**

*Setting down Action for Hearing.*

Setting  
down for  
hearing,  
and notice  
thereof.  
Form 375.

35. Where an appearance has been entered, and the pleadings and preliminary acts (if any) have been delivered and filed, or the time allowed for delivery or filing of any pleading or preliminary act has expired without such pleading or act having been delivered or filed, any party may, subject to the right of the defendant to apply for the dismissal of the action for want of prosecution under the last preceding rule, apply to have the action set down for hearing, and it shall be set down accordingly, either on a day appointed for the transaction of the ordinary general business of the court, or on a day appointed by the judge on application made pursuant to Rule 3 of this Order ; and the registrar shall forthwith give to each party in the action a notice stating the day upon which the action will be heard. [Rule 22a, May, 1899.]

*Procedure in Default of Appearance.*

Procedure  
in default  
of appear-  
ance.

36. Where no appearance has been entered within the time limited by the summons, then—

Form 375.

(1.) If the claim is for salvage or towage, and is not a claim of a liquidated nature, and is not a claim for damages, the plaintiff may, on filing an affidavit of due service of the summons, apply to have the action set down for hearing, and it shall be set down accordingly, either on a day appointed for the transaction of the ordinary general business of the court, or on a day appointed by the judge on application made by the plaintiff ; and the registrar shall forthwith give to the plaintiff a notice stating the day upon which the action will be heard ;

Forms  
395-397.

(2.) In any other case, the plaintiff may apply to have the action set down for hearing ; or he shall, on filing an affidavit of due service of the summons, be at liberty to sign final judgment for the amount named in the particulars in claims of a liquidated nature, with costs to be taxed, or interlocutory judgment with costs to be taxed in actions for damages, and in the latter event the damages shall be assessed by the registrar under the rules provided for the assessment of damages. [Rule 23a, May, 1899.]



*Bail. Release of Property.***ORDER  
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37. Bail in Admiralty actions may be taken before the registrar, or before a commissioner to administer oaths ; but in every case the sureties shall justify, unless the adverse party gives notice in writing dispensing with affidavits of justification. [Rule 24.]

Bail before registrar or commissioner.

Form 377.

38. No commissioner shall take bail on behalf of any person for whom he or any person in partnership with him is acting as solicitor or agent.

Commissioner in certain cases not to take bail.

[New ; R.S.C. Order XII., Rule 21.]

39. The bail bond and affidavits of justification shall be prepared by the party giving bail ; the affidavits shall be according to the form in the Appendix, with such variations as may be necessary. [Rule 25.]

Preparation of bail papers.  
Form 378.

40. If bail is to be taken before the registrar, a notice containing the names and addresses of the sureties, and of the time appointed for taking the bail, shall be given or sent by post by the registrar to the party giving bail, and shall be served by such party on the party requiring bail before six o'clock on the day before that which is appointed for taking the bail ; and the sureties shall attend at the time appointed for the purpose of executing the bail papers, and of being cross-examined as to their means, if required. Where cross-examination is not required, the bail papers may be executed before a clerk to the registrar nominated by the judge under section eighty-three of the Act to take affidavits. [Rule 26.]

Bail before registrar.

Form 376.

41. If bail is taken before a commissioner, notice of such bail shall be given, and an affidavit of service thereof filed according to the forms in the Appendix, subject to such variations as may be necessary ; but the property shall not be released without consent until the expiration of twenty-four hours from the time of service of such notice. [Rule 27.]

Bail before commissioner.

Forms  
379, 380.

42. On receipt of notice of bail having been taken before a commissioner, the property shall not be released, if before the expiration of such twenty-four hours the party requiring such bail gives notice to the party giving bail, and to the registrar, that he requires such sureties to attend before the registrar for the purpose of being cross-examined as to their means. [Rule 28.]

Notice to sureties to attend for cross-examination.  
Form 381.  
[Rule 28.]

ORDER  
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Cross-ex-  
amination  
of sureties.  
Form 382.

43. On receipt of such notice the registrar shall appoint a time for such cross-examination, and shall give or send by post notice of the time appointed to the parties forty-eight hours at least before the time so appointed; and the sureties shall attend at the time appointed for the purpose of being cross-examined; and on such cross-examination the registrar may either declare the bail given to be sufficient, or order fresh bail to be given. [New.]

Costs of ex-  
amination  
of sureties  
required  
without  
sufficient  
cause.  
[Rule 29.]

44. If in the opinion of the registrar notice of attendance of the sureties for such cross-examination has been given without sufficient cause, the costs of their attendance for cross-examination, and the expenses of the detention of the property kept under arrest in consequence of such notice, shall be paid by the party requiring such attendance, and the registrar shall make an order accordingly.

Release on  
payment  
into court  
or comple-  
tion of  
bail.  
Form 384.

45. Where the amount sued for is paid into court, together with costs, or when the security has been completed, or in any other case if the plaintiff so requires, the registrar shall deliver to the party applying for the same an order directed to the high bailiff of the court, authorising and directing him, upon payment of all costs, charges, and expenses attending the custody of the vessel or property, to release it forthwith. [Rule 30.]

Release in  
action for  
salvage.

46. Notwithstanding the last preceding rule, the property in an action for salvage shall not be released, except with the consent of the plaintiff, until its value has been agreed or an affidavit of value filed on behalf of the party seeking the release, unless the judge otherwise orders. [Rule 31.]

Appraise-  
ment at  
request of  
plaintiff.  
Form 383.

47. If the plaintiff is dissatisfied with the value mentioned in the affidavit filed under the preceding rule, he shall be entitled to have the value ascertained by appraisement, and for such purpose shall file a præcipe. The costs of such appraisement shall be in the discretion of the court. If the plaintiff does not require an appraisement, he shall not be entitled to dispute at the hearing the value mentioned in the affidavit, unless the judge, in the exercise of his discretion, for good cause otherwise orders. [Rule 32; last paragraph new.]

[*The Argo*.  
L.R. 1895,  
P. 33.]

Release of  
cargo.

48. Cargo arrested for freight only may be released by filing an affidavit as to the value of the freight and by paying the amount of

the freight into court, or by satisfying the court that it has already been paid.

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XXXIX.

[New ; R.S.C. Order XXIX., Rule 4.]

49. A commission or fee paid to a person becoming surety to a bail bond or otherwise giving security may be recovered on taxation. Provided that the amount of such commission or fee shall not in the aggregate exceed one pound per centum on the amount in which bail is given. [New ; R.S.C. Order XII., Rule 21A, Nov. 1900.]

Commis-  
sion re-  
coverable  
on taxa-  
tion.

### *Transfer of Action.*

50. Where an action is transferred to another county court or to the High Court by order either of the court in which the action was commenced or of the High Court, the registrar shall transmit the record of the proceedings to the proper officer of the court, in the same manner as is prescribed by Order XXXIII., Rule 7, of these Rules, for the transmission of proceedings transferred under section ninety of the Supreme Court of Judicature Act, 1873, and sections sixty-eight and one hundred and twenty-six of the Act. [Rule 33.]

Transfer of  
action to  
High Court  
or another  
county  
court.  
36 & 37  
Vict. c. 66.  
s. 50.  
51 & 52  
Vict. c. 43.  
ss. 68, 126.  
Forms 385,  
386.

51. Where the proceedings are transferred by an order of the High Court, a copy of the order transferring the proceedings shall be left with the registrar. [Rule 34.]

Order of  
High  
Court for  
transfer to  
be left with  
registrar.

### *Second or Cross Action.*

52. Where it appears to the judge that the plaintiff in an Admiralty action (hereafter called the second action) was or is the defendant in an action (hereafter called the first action) in another court arising out of the same transaction, and that he did not propose to the plaintiff in the first action that by agreement jurisdiction should be given to the court in which the first action was commenced to hear and determine the second action, the judge may, if he thinks fit, refuse the plaintiff in the second action his costs. [Rule 35.]

When  
costs in  
second or  
cross action  
may be  
refused.

53. Where a second or cross action for damage has been commenced by a defendant in an action for damage, and the second action has been commenced, by agreement or otherwise, in the court in which the first action was commenced, or has been transferred to the said court by order of any other court, the court may direct both actions to be tried at the same time and upon the same evidence. [Rule 36.]

Cross  
actions  
may be  
tried  
together.

ORDER  
XXXIX.

*Consolidation of Actions.*

Consolidation of Actions.

53A. Admiralty actions pending in the same court and depending on the same facts, or actions of salvage pending in the same court and relating to services rendered to the same vessel in relation to the same peril, may be consolidated by order of the court, on application made by any party on notice to all other parties in accordance with the rules in force as to interlocutory applications. On any such order being made the court may give such directions as to the conduct of the consolidated actions, the delivery of pleadings, and the appearance of the parties at the hearing, and may impose such terms and conditions and make such orders in the matter, as may be just. [New; see R.S.C. Order XLIX., Rule 8; County Court Rules, Order VIII., Rule 4.]

*Enforcement of Orders.*

Enforcement of judgment *in personam*.

Forms 402, 403.

54. Where a judgment or order has been obtained in an action *in personam*, such judgment or order may be enforced against the defendant in the same manner as judgments or orders of the court are enforced in ordinary actions. [Rule 37a, May, 1899.]

Enforcement of judgment *in rem*, where vessel or property released.  
Forms 402, 403.

55. Where a judgment or order has been obtained in an action *in rem* in which the vessel or property to which the action relates has been released, such judgment or order may be enforced against the parties giving bail and their sureties, or against the amount paid into court, as the case may be. [Rule 37b, May, 1899.]

Enforcement of judgment *in rem*, where vessel or property not released.

56. Where a judgment or order has been obtained in an action *in rem* in which the vessel or property to which the action relates has not been released, the court may, by the judgment or order, or by subsequent order, order the vessel or property to be taken and sold in execution, subject to the provisions hereinafter contained. [Rule 37c, May, 1899.]

Proceedings where owners are known.  
31 & 32 Vict.c. 71.  
s. 22.

57. Where at the time when the judgment or order is obtained the owners of the vessel or property are known, the vessel or property may be arrested and detained under the provisions of section twenty-two of the County Courts Admiralty Jurisdiction Act, 1868, or kept in arrest if already arrested; and the court may, with or without notice to the owners, order such vessel or property to be taken and sold in execution.

Provided that, in the case of a British-owned vessel, before any order for sale is made, the adverse party shall deliver to the registrar a *præcipe*, with a certified copy of the ship's register: and if the names of any persons who are not before the court appear on the register as having an interest in the vessel, the registrar shall issue to the solicitor, if such *præcipe* is delivered through a solicitor, or to the bailiff, for service on such persons in accordance with Rule 48 of this Order, a notice of the judgment or order, stating thereon that if such persons do not within seven clear days from the day of service deliver a *præcipe* to the registrar applying for a re-hearing of the action, the vessel or property to which the action relates will be taken and sold in execution. [Rule 37*d*, May, 1899.]

ORDER  
XXXIX.

Provisions  
for pro-  
tection of  
persons  
having in-  
terest who  
are not  
before the  
court.

Forms  
404, 405.

58. Where at the time when the judgment or order is obtained the owners of the vessel or property are unknown, the vessel or property shall not be taken and sold in execution in the first instance, but it may be arrested and detained under the provisions of section twenty-two of the County Courts Admiralty Jurisdiction Act, 1868, or kept under arrest if already arrested. [Rule 37*e*, May, 1899.]

Proceed-  
ings where  
owners are  
unknown.  
31 & 32  
Vict. c. 71.  
s. 22.

59. Where the owners of the vessel or property are subsequently ascertained, the adverse party may deliver to the registrar a *præcipe* stating the names, addresses, and descriptions of such owners, with, if the vessel be a British-owned vessel, a certified copy of the ship's register: and thereupon the registrar shall issue to the solicitor, if such *præcipe* is delivered through a solicitor, or to the bailiff, for service on the owners, and, in the case of a British-owned vessel, on the other persons, if any, whose names appear on the ship's register as having an interest in the vessel, a notice of the judgment or order, stating thereon that if the owners or other persons, if any, appearing to have an interest in the vessel do not within seven clear days from the day of service deliver a *præcipe* to the registrar applying for a re-hearing of the action, the vessel or property to which the action relates will be taken and sold in execution. [Rule 38*a*, May, 1899.]

Proceed-  
ings on dis-  
covery of  
owners.

Forms  
406, 407.

60. The notice in the last preceding rule mentioned shall be served personally upon the owners and upon the other persons, if any, whose names appear on the ship's register as having an interest in the

Service of  
notice on  
owners or  
persons  
having  
interest.

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vessel, unless the court upon facts duly verified upon affidavit allows of substituted service. [Rule 39a, May, 1899.]

Proceed-  
ings where  
owners  
cannot be  
ascertained.

Forms  
408, 409.

61. Where the owners of the vessel or property cannot be ascertained, the court may, on an affidavit showing grounds, make an order directing notice of the judgment or order to be given, by advertisement or otherwise, to the owners of and all persons claiming to have an interest in the vessel or property to which the action relates, together with a notice informing such owners and persons that if they do not within a time to be limited by the order and specified in the notice (which shall not be less than ten clear days from the date of the publication of the notice) deliver a præcipe to the registrar applying for a re-hearing of the action, the vessel or property to which the action relates will be taken and sold in execution. [Rule 39b, May, 1899.]

Applica-  
tion for re-  
hearing,  
and pro-  
ceedings  
thereon.

Form 410.

Costs  
before re-  
hearing.

62. Any person served with or receiving notice under any of the five preceding rules, and desiring to apply for a re-hearing of the action as owner of or a person claiming to have an interest in the vessel or property, may within the time limited by the notice apply for a re-hearing by filing a præcipe and entering an appearance in accordance with the provisions of this Order as to appearance; and thereupon the action shall proceed in the same manner as an action in which appearance is entered within the time limited by the summons. The costs of the plaintiff incurred prior to the entry of appearance shall be in the discretion of the judge, and shall be dealt with on the re-hearing as the judge shall direct. [Rule 39c, May, 1899.]

Order for  
sale in  
default of  
application  
for re-  
hearing.

63. If no appearance is entered within the time limited by the notice, the court may order the vessel or property to which the action relates to be taken and sold in execution. [Rule 39d, May, 1899.]

*Execution against Vessel or Property.*

Issue of  
warrant for  
sale of  
vessel or  
property.  
Forms  
411, 412.

64. Where pursuant to these rules the court orders any vessel or property to be taken and sold in execution, the registrar shall, on a præcipe being filed by the plaintiff, issue a warrant of execution according to the form in the Appendix. [Rule 39e, May, 1899.]

65. Where under a warrant of execution a vessel is seized, the high bailiff shall before selling the same cause an inventory and valuation thereof to be made by an appraiser, and the vessel shall not be sold for less than the appraised value thereof, except by order of the court. The appraiser shall be allowed such remuneration and expenses as may be prescribed by any Order as to fees made pursuant to section one hundred and sixty-five of the Act. In default of any remuneration being so prescribed, he shall be allowed 10s. per cent. on the appraised value of the vessel, and a reasonable sum for travelling expenses and maintenance. [Rule 40, amended Nov., 1900.]

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XXXIX.

Inventory  
and  
valuation.  
Sale.

51 & 52  
Viet. c. 43.  
s. 165.

66. On the completion of the sale of a vessel or property the high bailiff shall pay the gross proceeds of sale into court, return the warrant, and file an account of the sale and of the fees thereon, signed by him, together with the certificate of appraisement signed by the appraiser. [Rule 41.]

Proceeds of  
sale to be  
paid into  
court.

67. Any person interested in the proceeds of any sale may inspect the high bailiff's account of the sale and of the fees thereon, and may object to such account and fees, and any such objection shall be heard in the same manner as an objection to the taxation of a solicitor's bill of costs.

Objection  
to account  
of sale, or  
to fees.

[New ; R.S.C. Order LI., Rule 16.]

68. On the completion of the purchase the high bailiff shall deliver up the property to the purchaser, and if required so to do shall execute a bill of sale to him at the expense of the purchaser. [Rule 42.]

Delivery of  
property to  
purchaser.

69. The costs incurred by the plaintiff in obtaining an order directing any vessel or property to be taken and sold in execution, and in suing out execution, to be taxed by the registrar, shall be allowed and be recoverable against the vessel or property taken in execution. [Rule 43a, May, 1899.]

Costs of  
obtaining  
order for  
sale, and of  
execution.

### *Transfer of Sale.*

70. Where a vessel has been arrested or has been seized under a warrant of execution, and the sale of the vessel has been ordered to be transferred to the High Court, the vessel shall be retained by the high bailiff until the marshal shall, by order of the High Court, take possession thereof. [Rule 44.]

Proceed-  
ings on  
transfer  
of sale.

ORDER  
XXXIX.

Application for transfer of proceedings for sale.

Application to be transmitted to judge.  
Form 413.

71. The party desiring that the sale of any vessel or property should be conducted in the High Court may at any time after judgment give security to the amount of ten pounds, and deliver to the registrar an application for an order for the transfer of the proceedings for sale to the High Court. [Rule 45.]

72. The registrar shall transmit the application in the last preceding rule mentioned to the judge for his order thereon, if the court is not sitting, and shall in any case certify on the application that the security for costs has been given. [Rule 46.]

*Tenders.*

Provisions of Order IX. as to payment into court not to apply.  
Tender.  
Form 387.

73. The provisions of Order IX. as to payment into court shall not apply to Admiralty actions; but in lieu thereof the following provisions shall apply. [Rule 48*a*, May, 1899.]

74. (1.) A party desiring to make a tender shall give notice to the adverse party of the terms and amount of the tender, and shall deliver a præcipe, with a copy thereof for the adverse party, and pay the amount of the tender into court.

(2.) A tender may be made and money paid into court—

(*a*) either in respect of the whole of the claim of the adverse party, or in respect of any part thereof:

(*b*) with or without costs:

(*c*) with or without a denial of liability: and

(*d*) with or without a notice of defence on the ground of tender before action brought.

(3.) The præcipe shall state whether the tender is made in respect of the whole of the claim or in respect of part only thereof, and if it is made in respect of part only of the claim, such part shall be specified in the præcipe.

(4.) If the tender is made with costs, the præcipe shall specify what amount is paid in respect of the claim and what amount in respect of costs.

(5.) If the tender is accompanied by a denial of liability, that fact shall be stated in the præcipe.



(6.) If the tender is accompanied by notice of defence on the ground of tender before action brought, notice of such defence shall be given in the præcipe. [Rule 48*b*, May, 1899.]

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—

75. The registrar shall, within twenty-four hours from the time of any payment made into court pursuant to the preceding rule, send to the adverse party notice thereof, together with a copy of the præcipe accompanying such payment. [Rule 48*c*, May, 1899.]

Notice of  
payment  
into court.  
Form 388.

76. Within forty-eight hours of the receipt of notice of any such payment into court, the adverse party shall send to the registrar and to the party making the payment, or his solicitor, by post, or leave at the office of the registrar and at the residence or place of business of such party, or the office of such solicitor, a notice stating whether he accepts or rejects the tender; and if he fails to do so, he shall be deemed to have rejected it. [Rule 49*a*, May, 1899.]

Notice of  
acceptance  
or rejection  
of tender.  
Form 389.

77. Where a party accepts a tender in respect of the whole of his claim, he shall, unless the tender is accompanied by notice of defence on the ground of tender before action brought, be entitled to take the amount of such tender out of court, and shall be entitled to his costs of action; and

Acceptance  
of tender  
in respect  
of whole  
claim.

(*a*) if payment into court was made without costs, he shall be at liberty to tax his costs, and obtain and enforce an order for payment thereof;

Costs.

(*b*) if payment into court was made with costs, he may either accept and take out of court the amount paid in respect of costs, or tax his costs and obtain and enforce an order for payment of the amount by which such costs when taxed exceed the amount paid in respect of costs; but if the amount so paid exceeds the amount of such costs when taxed, the balance thereof, after payment of the taxed costs, shall be repaid to the party making the tender. [Rule 50*a*, May, 1899.]

78. Where a party accepts a tender in respect of part of his claim only, he shall, unless the tender is accompanied by notice of defence on the ground of tender before action brought, be entitled

Acceptance  
of tender  
in respect  
of part of  
claim.

ORDER XXXIX.

Costs.

to his costs in respect of the amount so accepted up to the time of notice of acceptance ; but the amount so accepted shall not be paid out of court, nor shall such costs be taxed or payable, until the action is disposed of, and the court may order any costs awarded to the party making the tender to be set off against such amount and costs. [Rule 50*b*, May, 1899.]

Acceptance of tender when accompanied by defence of tender before action.  
Costs.

79. Where a party accepts a tender accompanied by notice of defence on the ground of tender before action brought, he shall not be entitled to take out of court the amount so accepted, nor to any costs, without the order of the court ; and the court may make such order as may be just as to the costs of either party, and as to the set off of any costs awarded to the party making the tender against the amount paid into court. [Rule 50*c*, May, 1899.]

Where tender accompanied by denial of liability is not accepted.  
Costs.

80. Where a tender is accompanied by a denial of liability, and the adverse party does not give notice that he accepts the tender in accordance with Rule 76 of this Order, such party may nevertheless accept the tender (whether he has previously given notice of rejection or not) at any time before the action is called on and the case is opened, subject to the payment of any costs which may have been reasonably incurred by the party making the tender since the date of payment into court, and which may be allowed by the court. In any other case the money shall not be paid out until the action is disposed of ; and if the adverse party recovers less than the amount paid into court, the balance of such amount shall be repaid to the party making the tender, unless the court otherwise orders, and the court may order any costs awarded to such party to be set off against the amount recovered by the adverse party ; and if the party making the tender succeeds, the whole amount paid into court shall be repaid to him, unless the court otherwise orders. [Rule 50*d*, May, 1899.]

*Payment out of Court.*

Payment out of court to solicitor.

81. Money ordered in an Admiralty action to be paid out of court may be paid to the solicitor on the record, without the production of a power of attorney from the party entitled to receive the money, unless the judge otherwise orders. [Rule 51.]

82. Where more actions than one have been commenced against a vessel or any property, and the same has been sold, the proceeds thereof shall be retained in court to abide the decision of the court in the various actions, unless the judge otherwise orders. [Rule 52.]

ORDER  
XXXIX.

Retainer of  
moneys in  
court  
where  
more than  
one action.

### *Appraisement.*

83. The registrar may, on the application of either party, and whether before or after judgment, order any property under arrest to be appraised, and the same allowances shall be made to the appraiser as are directed to be allowed by Rule 65 of this Order. [Rule 53.]

Appraise-  
ment.

### *Records of the Court.*

84. The parties in an action, their solicitors, or the clerks of the solicitors, may while the action is pending, and for one year after its termination, inspect, free of charge, all the records in the action. [Rule 54.]

Inspection  
of records.

85. In a pending action no person other than the parties, their solicitors, or the clerks of the solicitors, shall be entitled to inspect the records in the action without the permission of the court. [Rule 55.]

Who en-  
titled to  
inspection  
during  
pendency  
of action.

86. In an action which has been finally disposed of any person may, on delivering to the registrar a præcipe, and on payment of the proper fee, inspect the records in the action. [Rule 56.]

The like on  
termina-  
tion of  
action.

### *Copies.*

87. Any person entitled to inspect any instrument or document in an action shall, on delivering to the registrar a præcipe, and on payment of the proper charges for the same, be entitled to an office copy thereof. [Rule 57.]

Office  
copies.

### *Assessors.*

88. Any party requiring the judge at the trial or the registrar on an assessment of damages to be assisted by assessors, shall deliver a præcipe to that effect, and shall at the time of delivering such

Payment  
on applica-  
tion for  
assessors  
by party.

ORDER  
XXXIX.  
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præcipe pay to the registrar the sum of one guinea for each assessor if the amount claimed does not exceed one hundred pounds, and two guineas if it does exceed that amount, and such payments shall be considered as costs in the action, unless otherwise ordered by the judge. [Rule 58.]

The like on  
require-  
ment of  
judge or  
registrar.

89. Where the judge or the registrar requires the assistance of assessors, the fees in the last preceding rule mentioned shall be paid by the plaintiff before the trial, and shall be costs in the action, unless otherwise ordered by the judge. [Rule 59.]

Assessors'  
fees on ad-  
journment.

90. Where the trial or reference is adjourned the plaintiff shall pay the assessors' fees for the day of adjournment forthwith after the order of adjournment is made by the judge or registrar, as the case may be. [Rule 60.]

Selection  
and  
summon-  
ing of  
assessors.

91. Upon the delivery of the præcipe in Rule 88 mentioned, or upon the requirement of the judge or registrar as in Rule 89 mentioned, the registrar shall select from the list of assessors the names of two persons whom he may, having reference to the nature of the action to be tried or of the reference to be determined, consider most capable of assisting the judge or registrar in trying and determining it, and shall send to each of such persons by post a summons according to the form in the Appendix. [Rule 61.]

Form 393.

Payment to  
assessors.

92. The registrar shall pay to every assessor for each day's attendance and service in every action or reference one guinea or two guineas, according as the amount claimed in the action does or does not exceed one hundred pounds. [Rule 62.]

*Admission of Liability.*

Party may  
admit lia-  
bility, ex-  
cept in  
salvage.  
Form 390.

93. The defendant in an Admiralty action may at any time after appearance, and the plaintiff may at any time after the filing of a counter-claim, admit liability in any action except for salvage. Such admission shall be by præcipe according to the form in the Appendix, and shall be signed by the solicitor for the party, or if signed by the party in person, shall be attested by a solicitor. [Rule 63.]

94. The party filing such præcipe shall immediately give notice thereof to the other parties in the action, and after receipt of such notice no costs shall be allowed to any party served therewith in respect of the further prosecution of the action so far as regards the question of liability. [Rule 64.]

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Notice  
thereof.

95. The parties may, before trial, agree that the damages recoverable shall be assessed by the registrar with or without assessors. [Rule 64.]

Agreement  
for assess-  
ment of  
damages  
by regis-  
trar.

### *Assessment of Damages.*

96. In all actions except salvage the judge may, instead of giving judgment for any specified amount, give judgment settling the rights of the parties, and order a reference to the registrar or to the registrar and assessors as to the amount to be recovered, which amount shall bear interest from such date as the registrar may allow at the rate of four per cent. per annum. [Rule 65.]

Judge may  
order refer-  
ence, ex-  
in salvage.  
Form 397.

97. After an order has been made under the last preceding rule, or an admission of liability has been filed under Rule 93, the claimant shall within seven days file particulars of his claim, if not already filed, and all original vouchers, and shall serve copies thereof on the adverse party. [Rule 66.]

Claimant  
to file  
particulars  
and  
vouchers.

98. Upon the application of either party the registrar shall fix a time and place for proceeding on the reference, and shall give at least four days notice thereof to all parties ; and he shall summon an assessor or assessors to be present thereat if so ordered by the judge, or required by either party or by himself. [Rule 67.]

Registrar  
to appoint  
time for  
reference.  
Form 398.  
Assessors.

99. At the time appointed for the reference, if either party be present, the reference may be proceeded with ; but the registrar may adjourn the reference from time to time as he may think fit. [Rule 68.]

Registrar  
may pro-  
ceed with  
or adjourn  
reference.

100. Witnesses may be produced for examination on the reference ; or where a witness resides at a distance of not less than ten miles from the registrar's office, or in any other case by consent of the parties, evidence may be given on affidavit, subject to the right of the adverse

Evidence  
may be  
given *viva*  
*voce* or by  
affidavit.

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Cross examination on affidavit.

party to require the deponent to any such affidavit to attend the reference for cross-examination: Provided that the registrar may allow the costs of such attendance against the cross-examining party in the event of his considering that it was unnecessarily called for. [Rule 69.]

Report by registrar.  
Form 399.  
[Rule 70.]

Form 400.

101. As soon as possible after the conclusion of the reference the registrar shall report in writing according to the form in the Appendix, with such variations as may be necessary, what amount is found to be due in respect of every claim filed, particularizing in a schedule to such report each amount claimed and allowed, and what part of the costs of the reference (if any) shall be allowed, and to whom. He shall also immediately give notice to both parties that the report has been made, and may be inspected at his office; and unless within seven days after the service of such notice as last aforesaid either party lodges an objection to the report, the same shall become final and binding on all parties, and judgment shall be entered accordingly.

Objection to report.  
Form 401.

102. Any party intending to object to the registrar's report shall within the aforesaid period of seven days file with the registrar and give to the adverse party a notice of such intention. In such notice he may also request the registrar to state in writing the reasons of his decision, either as regards the whole of the same or as regards any particular items to be specified in the notice of objection. If a notice of objection is filed, judgment shall not be entered on the report until either the notice has been withdrawn or the matter disposed of by the judge. [Rule 71.]

Registrar to file reasons.

103. Within seven days from the notice of the filing of a notice of objection to the report the registrar shall himself file a statement of his reasons as required by the notice; and the report shall be brought up before the judge at the next sitting of the court to be held after the expiration of seven days from the filing by the registrar of such reasons. [Rule 72.]

Appeal from registrar's report.  
[Rule 73.]

104. On the matter coming before the judge a hearing shall take place by way of appeal from the report; and the judge may either vary or confirm such report, or refer the same back to the registrar.

with any such directions as may appear to him to be just, and may make such order as to the costs as he may think fit ; and on the matter being finally disposed of judgment shall be entered accordingly.

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### *Consent Orders.*

105. Any consent in writing between the parties to an action or their solicitors may by permission of the court be filed, and shall thereupon become an order of the court, and such order shall be as valid and may be enforced in the same manner as an order made by the court. [Rule 74.]

Orders by  
consent.  
Form 391.

### *Subpœnas.*

106. A party shall be entitled to issue subpœnas *ad testificandum* and *duces tecum* under the seal of the court without inserting the names of the witnesses. [Rule 75.]

Subpœnas  
may be  
issued in  
blank.

107. Service of a subpœna may be effected by any party to the action or his solicitor or the agent of such solicitor, or by any person employed by either of them, in any part of England or Wales. [Rule 76.]

Service in  
England or  
Wales.

### *Service of Notices and Orders.*

108. After an appearance has been entered all necessary notices, orders, and other documents may be served by post when the party appearing, or his solicitor, resides or carries on business at a distance of more than two miles from the office of the party or solicitor serving the same. [Rule 77.]

Service by  
post.

### *Costs.*

109. The costs of all necessary correspondence in Admiralty actions shall be allowed by the registrar. [Rule 78.]

Costs of  
necessary  
letters.

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XXXIX.

Costs of solicitor acting as agent out of the district.

110. When it becomes necessary to employ a solicitor to act as agent out of the district of the court for the purpose of obtaining the evidence of witnesses on the trial of an action, a reference before the registrar, or the taxation of costs, or for any other necessary purpose, the costs of such agent and of instructing him shall be allowed by the registrar. [Rule 79.]

Costs where defence, &c., which should have been pleaded is allowed at trial.

111. Where any party is allowed at the trial or any adjournment thereof to avail himself of any defence, set off, or counterclaim of which notice should have been given before the trial, the judge in exercising his discretion as to costs shall consider what effect the non-delivery of such notice has had in the action. [New; see County Court Rules, Order XXXIXB, Rule 47.]

Costs where less than 20% recovered or claimed.

112. In Admiralty actions where the amount recovered, or in the case of a defendant the amount claimed, does not exceed twenty pounds, the costs shall be allowed under column B., unless the judge otherwise orders. [Rule 80.]

Power to allow additional costs in important cases.

113. Where the amount in dispute exceeds one hundred pounds, or the judge certifies that the action involved some novel or difficult point of law, or that the question litigated was of importance to some class or body of persons, reasonable costs and fees to counsel in increase of the costs and fees allowable by the scales in the Appendix in respect of the proceedings mentioned in those scales, and reasonable costs and fees to counsel in respect of proceedings properly taken or work properly done for which no provision is made by the scales, may be allowed at the discretion of the registrar, subject to review by the judge, or by special order of the judge. [New.]

*Application of Order.*

Application of Order to proceedings in Admiralty under 57 & 58 Vict. c. 60, and other Acts.

114. The provisions of this Order shall apply to proceedings instituted as Admiralty proceedings in any county court having Admiralty jurisdiction as to wages or salvage, or any other matter, under the Merchant Shipping Act, 1894, or any other Act under which Admiralty proceedings may be taken in the court. [New.]



## ORDER XL.

[Order XLA., Nov., 1900.]

THE AGRICULTURAL HOLDINGS (ENGLAND) ACTS, 1883 TO 1900, &c. Appointment or change of guardian. 46 & 47 Vict. c. 61. s. 25.

1. (1.) An application for the appointment or change of a guardian of an infant or person of unsound mind not so found by inquisition for the purposes of the Agricultural Holdings (England) Acts, 1883 to 1900 (in this Order referred to as the said Acts), shall be intituled in the matter of the Acts and of the arbitration or intended arbitration, and shall be made in accordance with the rules for the time being in force as to interlocutory applications.

(2.) Any such application shall be supported by affidavit, and accompanied by a written consent of the proposed guardian to act as such. Affidavit. [Conf. Forms 50, 51.]

(3.) An application on behalf of an infant or person of unsound mind for the appointment of a guardian may be made *ex parte*. Applications *ex parte*.

(4.) An application by any other person interested for the appointment of a guardian of an infant or person of unsound mind shall be made to the judge on notice in writing; and such notice, together with a copy of the affidavit in support of the application, shall three clear days at least before the day in such notice named for hearing the application be served on the person with whom or under whose care such infant or person of unsound mind is residing, and also, in the case of an infant not residing with or under the care of his father or guardian, on the father or guardian (if any) of such infant: Provided that the registrar may dispense with such last-mentioned service. Service may be effected in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883. Applications on notice. [Conf. Forms 54, 55, 56.] 46 & 47 Vict. c. 61. s. 28.

(5.) An application for the removal or change of a guardian shall be made to the judge on notice in writing, which shall be served on the guardian proposed to be removed or changed, or his solicitor, in accordance with the last preceding paragraph.

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Application for  
order to  
state case.  
63 & 64  
Vict. c. 50.  
Sched. 2,  
Part 1,  
par. 9.  
Form 415.

2. (1.) An application to the judge under the said Acts for an order directing an arbitrator to state in the form of a special case for the opinion of the court any question of law arising in the course of the arbitration shall be made in court on notice in writing, which shall be intituled in the matter of the Acts and of the arbitration, and shall state concisely the question of law which the applicant desires to be stated for the opinion of the court, and shall be supported by an affidavit setting forth the facts of the case and the question of law arising thereon.

(2.) The application and affidavit shall be filed with the registrar, and shall be marked by the registrar with a reference number, and all subsequent proceedings shall bear the reference number.

(3.) Copies of the application and affidavit shall be served by the applicant on the parties to the arbitration, and on the arbitrator, or on their respective solicitors (if any), ten clear days at least before the hearing of the application, unless the judge or registrar shall give leave for shorter service, in which case a copy of the order giving such leave shall be served with the copy of the application. Such service may be effected in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883; and service on any party who does not appear on the hearing of the application shall be proved before an order is made.

46 & 47  
Vict. c. 61.  
s. 28.

(4.) Any affidavit intended to be used by any party in opposition to the application shall be filed and a copy thereof shall be served on the applicant or his solicitor four clear days at least before the hearing of the application, or, if leave has been given for short service of the notice of the application, in such reasonable time before the hearing as the date of service of such notice will allow.

(5.) A deponent to an affidavit shall on notice from the other side served in accordance with paragraph 3 attend the hearing for cross-examination; and witnesses may be orally examined on the hearing of the application in the same manner as on the hearing of an action.

(6.) The order of the judge on the application shall be settled and signed by the registrar, and shall be sealed and filed, and signed copies thereof shall be served on the arbitrator in accordance with the

provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883, and on all other persons affected thereby in accordance with Rule 7 of Order XXIII.

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46 & 47  
Vict. c. 61.  
s. 28.

3. (1.) Where an arbitrator under the said Acts states in the form of a special case for the opinion of the court any question of law arising in the course of the arbitration (whether on his own motion or in pursuance of a direction of the court to that effect), such case shall be intituled in the matter of the Acts and of the arbitration, and shall be divided into paragraphs numbered consecutively, and shall state concisely such facts and documents as may be necessary to enable the judge to decide the questions of law raised thereby. Upon the argument of such case the judge and the parties shall be at liberty to refer to the whole contents of such documents, and the judge shall be at liberty to draw from the facts and documents stated in the case any inference, whether of fact or of law, which might have been drawn therefrom if proved at the hearing of an arbitration.

Statement  
of case.  
63 & 64  
Vict. c. 50.  
Sched. 2,  
Part 1,  
par. 9.

(2.) Such special case shall be signed by the arbitrator, and may be filed by the arbitrator or any of the parties to the arbitration with the registrar, and a copy shall be filed therewith for the use of the judge; and such case shall be marked by the registrar with a reference number, (which, where a case is stated in pursuance of a direction of the court to that effect, shall be the same as that on the application for such direction,) and all subsequent proceedings shall bear the reference number.

Signing  
and filing.

(3.) On a case being filed the registrar shall transmit a copy thereof to the judge, who shall, as soon as conveniently may be, appoint a day and hour for hearing the case, and instruct the registrar to give notice thereof forthwith to the parties. Such day shall be so fixed as to allow such notice to be given ten clear days at least before the day fixed for the hearing, unless the judge shall, with the consent of all parties, fix an earlier day; and such notices may be served in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883.

Fixing day  
for hearing.

Form 416.

46 & 47  
Vict. c. 61.  
s. 28.

(4.) The registrar shall, on the application and at the cost of any party, furnish him with a copy of the case.

Copies of  
case.

**ORDER XI.** (5.) On the hearing of the case an order in accordance with the opinion of the judge shall be settled and signed by the registrar, and shall be sealed and filed, and signed copies thereof shall be served on all parties to the arbitration in accordance with Rule 7 of Order XXIII. ; and a signed copy thereof shall be sent in like manner to the arbitrator, for him to proceed in accordance with the opinion of the judge.

**Order on hearing.**  
**Form 417.**  
**Remitting case for re-statement.** (6.) The judge may remit the case to the arbitrator for re-statement or further statement.

**Application for removal of arbitrator, or to set aside award.**  
**63 & 64**  
**Vict. c. 50.**  
**Sched. 2;**  
**Part 1,**  
**pars, 6, 13.**  
4. (1.) When application is made to the court under the said Acts for the removal of an arbitrator on the ground of his misconduct, or for an order setting aside an award on the ground of misconduct of the arbitrator, or on the ground that the arbitration or award has been improperly procured, the party making the application shall be called "the applicant"; and all other parties to the arbitration, and the arbitrator, shall be made parties to the application, and shall be called "the respondents."

**Proceedings, how commenced.**  
**Form 418.**  
**Particulars and affidavit.**  
(2.) Proceedings shall be commenced by filing an application, intituled in the matter of the Acts and of the arbitration, which shall be entered and numbered as a plaint.

(3.) Particulars shall be appended or annexed to the application, containing

(a.) A concise statement of the relief or order which the applicant claims, and of the grounds on which the application is made :

(b.) The full names and addresses of the respondent and of the applicant, and of his solicitor, if the proceedings are commenced through a solicitor :

and the application shall be supported by an affidavit setting forth the circumstances in which and the grounds on which the application is made.

**Copies for judge and respondents.**  
(4.) The applicant shall deliver to the registrar with the application, particulars, and affidavit a copy thereof for the judge, and a copy for each respondent to be served ; and where the application is to set aside an award, the applicant shall file a copy of the award for the use of the judge.

(5.) On the filing of the application the registrar shall fix the hearing thereof before the judge for any court appointed to be held within twenty-eight days from the date of the application, but the date of hearing shall be so fixed as to allow the copies of the application, particulars, and affidavit to be served on the respondents at least ten clear days before the date so fixed.

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Fixing day  
of hearing  
by regis-  
trar.

(6.) If there is no such court available, the registrar shall send notice of the application to the judge, who shall, as soon as conveniently may be, appoint a day and place for the hearing of the application. Such day shall be so fixed as to allow the copies of the application, particulars, and affidavit to be served on the respondents at least ten clear days before the date so fixed. The place of hearing shall be the place at which the court is held, or, if the judge so orders, any other convenient court of which he is judge.

Fixing day  
and place  
of hearing  
by judge.

(7.) On the day for the hearing of the application being fixed, the registrar shall give or send by post notice in writing to the applicant, stating the place at which and the day and hour on and at which the application will be heard, and shall issue the copies of the application, particulars, and affidavit, under the seal of the court, for service on the respondents, together with notices signed by the registrar himself and under the seal of the court, stating the place at which and the day and hour on and at which the application will be heard, and that if the respondents do not attend in person or by their solicitors such order will be made and proceedings taken as the judge may think just and expedient.

Notice to  
parties.

Forms  
419, 420.

(8.) The copies and notices mentioned in the last preceding paragraph shall be served on each respondent ten clear days at least before the day fixed for the hearing, unless such respondent, or his solicitor on his behalf, agrees to accept shorter service.

Service  
on respon-  
dents.

(9.) Such copies and notices may be served—

(a.) By a bailiff of a court ;

By whom  
service  
may be  
effected.

or, at the request of the applicant or his solicitor,

(b.) By the applicant, or some clerk or servant in his permanent and exclusive employ ; or

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(c.) By the applicant's solicitor, or a solicitor acting as agent for such solicitor, or some person in the employ of either of them.

**Mode of  
service.**

46 & 47  
Vict. c. 61.  
s. 28.

(10.) Service may be effected either in accordance with the rules as to service of default summonses, or by registered post in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883.

**Where  
service  
effected  
otherwise  
than by  
bailiff.**

Form 37.

(11.) Where service is effected otherwise than by a bailiff, a copy of the document served, with the date and mode of service indorsed thereon, shall within three clear days next after the date of service, or such further time as may be allowed by the registrar of the court issuing such document, be delivered or transmitted to such registrar by the applicant or his solicitor. The applicant or his solicitor shall also deliver or transmit to the registrar an affidavit of the service of such document, according to the form in the Appendix, with such variations as the circumstances of the case may require.

**Affidavits  
by re-  
spondents.**

(12.) Any affidavit intended to be used by any respondent on the hearing of the application shall be filed and a copy thereof shall be served on the applicant or his solicitor four clear days at least before the hearing of the application, or, if short service of the notice of the application has been accepted, in such reasonable time before the hearing as the date of service will allow.

**Attend-  
ance for  
cross ex-  
amination.  
46 & 47  
Vict. c. 61.  
s. 28.**

(13.) A deponent to an affidavit shall on notice from the other side served in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883, attend the hearing for cross examination; and witnesses may be orally examined on the hearing of the application in the same manner as on the hearing of an action.

**Procedure  
on appli-  
cation.**

(14.) Subject to the special provisions of this rule, the procedure on an application shall be the same as the procedure in an action commenced in the court by plaint and summons in the ordinary way, and determined by the judge without a jury; and the statutory provisions and rules for the time being in force relating to such actions shall, with the necessary modifications, apply to such application accordingly; and in the application of such provisions and rules the application shall be deemed to be a summons with particulars annexed,

the day fixed for proceeding with the application shall be deemed to be the return day, and the applicant and respondents shall be deemed to be plaintiff and defendants respectively.

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(15.) The order of the judge on any application shall be settled and signed by the registrar, and shall be sealed and filed, and signed copies thereof shall be served on all persons affected thereby in accordance with Rule 7 of Order XXIII. ; and such order shall be enforceable in the same manner as a judgment or order of the court.

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(16.) Where the hearing is to take place at another court, the registrar of the court in which the proceeding is pending shall forthwith send notice to the registrar of such other court that the judge has ordered the hearing to take place there ; and he shall, in sufficient time before the hearing, transmit the papers to the registrar of the court at which the hearing is to take place, who shall act at the hearing for such first-mentioned registrar, and shall, after the hearing, return the papers to him, with a minute of the order made ; and such order shall be settled, signed, sealed, filed, served, and proceeded on in the court in which the proceeding is pending, in like manner as if the hearing had taken place there.

Where  
hearing is  
to take  
place in  
another  
court.

5.—(1.) An application to the registrar to tax the costs of and incidental to an arbitration and award under the said Acts shall be made in writing, and shall state on whose behalf the application is made.

Application  
for taxation  
of costs of  
arbitration.  
63 & 64 Vict.  
c. 50, Sched. 2,  
Part I, par. 14.  
[Conf. Form  
423.]

(2.) On receipt of such application the registrar shall fix a place and time for proceeding with such taxation, and shall give or send by post notice in writing to the applicant and to the parties whose costs are to be taxed, signed by the registrar himself and under the seal of the court, stating the place, day, and hour at and on which the taxation will be proceeded with, and requiring the parties to attend and produce documents and be examined, and warning them that if they do not attend in person or by their solicitors such order will be made and proceedings taken as to the registrar shall seem fit. Such notices shall be given or sent four clear days at least before the day fixed for the taxation.

Notice of  
time and  
place for  
taxation.  
[Conf.  
Form 424.]

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Certificate  
of taxation.

(3.) On the completion of the taxation, or, in the case of review by the judge, after such review, the registrar shall give or send by post to each party a certificate of the result of the taxation, stating the amount at which the costs have been allowed.

Review of  
taxation by  
judge.  
63 & 64  
Vict. c. 50.  
Sched. 2,  
Part. 1,  
par. 14.

6. An application to the judge to review any taxation by the registrar shall be made on notice in writing in accordance with the rules for the time being in force as to interlocutory applications.

Applica-  
tion for  
recovery  
of money  
awarded to  
be paid for  
compensa-  
tion, &c.  
46 & 47  
Vict. c. 61.  
s. 24;  
50 & 51  
Vict. c. 26.  
s. 17;  
63 & 64  
Vict. c. 50.  
s. 2 (3).  
Form 421.

7. (1.) An application to the judge under the said Acts, or the Allotments and Cottage Gardens Compensation for Crops Act, 1887, for an order that money awarded to be paid for compensation, costs, or otherwise, shall be recoverable as money ordered by a county court under its ordinary jurisdiction to be paid is recoverable, shall be made in court on notice in writing, which shall be intituled in the matter of the Acts and of the arbitration; and on filing the application the applicant shall produce to the registrar the original award (or a duplicate thereof) and shall file a copy thereof, together with an affidavit intituled as above, verifying both the original and the copy award, and the amount remaining due thereunder.

(2.) Where the application is for the recovery of or includes the recovery of any money awarded to be paid for costs, the affidavit shall state the amount at which such costs have been agreed upon or allowed on taxation, and that a demand for payment of such amount, with, in the case of taxation, a copy of the certificate of the result of the taxation, has been served on the party against whom the application is made fourteen days at least before the date of the application. Service of such demand may be effected in accordance with the provisions of section twenty-eight of the Agricultural Holdings (England) Act, 1883.

(3.) The application shall not be numbered as a plaint, but shall be marked by the registrar with a reference number as a commencement of proceedings, and all subsequent proceedings shall bear the reference number.

(4.) A copy of the application and affidavit shall be served on the party against whom the application is made, and proof of such



service shall be made, in accordance with paragraph 3 of Rule 2 of this Order; and the provisions of paragraphs 4 and 5 of the last-mentioned rule shall apply to proceedings on an application under this rule.

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(5.) The order of the judge on the application shall be settled and signed by the registrar, and shall be sealed and filed, and signed copies thereof shall be served on all persons affected thereby in accordance with Rule 7 of Order XXIII.; and such order shall be enforceable in the same manner as a judgment or order of the court. Form 422.

8. Proceedings for the recovery of money agreed to be paid for compensation, costs, or otherwise, under the said Acts, or the Allotment and Cottage Gardens Compensation for Crops Act, 1887, or for the settlement of a dispute under section forty-six of the Agricultural Holdings (England) Act, 1883, shall be by action commenced by plaint and summons in the ordinary way. Particulars of demand shall be filed in any such action, stating concisely the nature of the claim or dispute, and the relief or order which the plaintiff claims.

Proceedings for recovery of money agreed to be paid under 46 & 47 Vict. c. 61. s. 24; 50 & 51 Vict. c. 26. s. 17; 63 & 64 Vict. c. 50. s. 2 (3) or for settlement of disputes under 46 & 47 Vict. c. 61. s. 46.

## ORDER XLI.

[Order XLIA., Nov., 1900.]

ORDER  
XLI.  

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THE FRIENDLY SOCIETIES ACTS. THE BUILDING SOCIETIES ACTS. THE INDUSTRIAL AND PROVIDENT SOCIETIES ACT, 1893. THE LITERARY AND SCIENTIFIC INSTITUTIONS ACT, 1854. WINDING-UP OF BUILDING AND INDUSTRIAL SOCIETIES.

1. Any dispute referred to the court under the Friendly Societies Act, 1875, the Friendly Societies Act, 1896, the Collecting Societies and Industrial Assurance Companies Act, 1896, the Industrial and Provident Societies Act, 1893, the Building Societies Act, 1874, or the Literary and Scientific Institutions Act, 1854 (in this Order referred to as the said Acts), shall be so referred by plaint and summons in the ordinary way.

Disputes under Friendly Societies and other Acts. 38 & 39 Vict. c. 60. 59 & 60 Vict. cc. 25, 26. 56 & 57 Vict. c. 39. 37 & 38 Vict. c. 42. 17 & 18 Vict. c. 112. Parties.

2. In proceedings commenced pursuant to the last preceding rule, the claiming or aggrieved member (or other person) shall be plaintiff, and the society, either in its own name, or in the name of such persons

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- as are authorised by the said Acts respectively to be sued on behalf of the society, shall be defendants.
- Particulars.** 3. Particulars of demand shall be filed in all cases of disputes under the said Acts, stating concisely the nature of the dispute referred, and the relief or order which the plaintiff claims.
- Proceedings for enforcement of decisions on disputes given otherwise than by the court, or of awards.** 4. An application under any of the said Acts for the enforcement of a decision on a dispute given by any authority other than the court, or for the enforcement of an award, shall be commenced by plaint and summons in the ordinary way, in which the party to the dispute or award entitled or claiming to be entitled to the benefit of such decision or award shall be plaintiff, and the party against whom such decision or award is given shall be defendant. Particulars of demand shall be filed with every such application, stating concisely the relief or order which the plaintiff claims.
- Application for relief on amalgamation, transfer of engagements, or dissolution of friendly society or branch.**  
38 & 39  
Vict. c. 60.  
59 & 60  
Vict. c. 25. 5. An application for relief or other order under the Friendly Societies Act, 1875, or the Friendly Societies Act, 1896, by any person dissatisfied with the provision made for satisfying his claim in the case of the amalgamation, transfer of engagements, or dissolution of any society or branch, shall be made by plaint and summons in the ordinary way, in which the person so dissatisfied shall be plaintiff, and the society or branch, either in its own name or in the name of such persons as are authorised by the said Acts respectively to be sued on behalf of the society or branch, shall be defendants. Particulars of demand shall be filed on every such application, stating concisely the relief or other order which the plaintiff claims.
- Application against officer of friendly society.**  
38 & 39  
Vict. c. 60.  
s. 20.  
59 & 60  
Vict. c. 25.  
s. 55. 6. An application to the court by the trustees or authorised officers of a friendly society in respect of any of the matters mentioned in section twenty of the Friendly Societies Act, 1875, or section fifty-five of the Friendly Societies Act, 1896, shall, whether any bond be put in suit or not, be by action commenced by plaint and summons in the ordinary way, in which the society or the trustees or authorised officers thereof shall be plaintiffs, and the person against whom the application is made shall be defendant.
- Application against officer of** 7. An application to the court under the Building Societies Act, 1874, or the Industrial and Provident Societies Act, 1893, against an

officer of any society shall, whether any bond be put in suit or not, be by action commenced by plaint and summons in the ordinary way, in which the society shall be plaintiffs, and the officer against whom the application is made shall be defendant.

ORDER  
XLI.  
—  
building or  
industrial  
society.  
37 & 38  
Vict. c. 42.  
56 & 57  
Vict. c. 39.

8. Particulars of demand shall be filed in all actions commenced pursuant to Rules 6 and 7 of this Order.

Particulars  
under  
Rules 6  
and 7.

9. If the application is made by action without putting the bond in suit, the particulars shall state shortly the nature of the thing required to be done or the neglect complained of.

Where  
bond not  
in suit.

10. If the thing required to be done be the delivering up of any property, the particulars shall contain a description of the property required to be given up.

Where pro-  
perty is  
required  
to be  
delivered  
up.

11. Proceedings to set aside the dissolution of any society or branch under any of the said Acts shall be commenced by plaint and summons in the ordinary way, in which the person seeking to set aside such dissolution shall be plaintiff, and the society or branch, either in its own name or in the name of such persons as are authorised by the said Acts respectively to be sued on behalf of the society or branch, shall be defendants. Particulars of demand shall be filed in such proceedings, stating concisely the relief or order which the plaintiff claims.

Proceed-  
ings to set  
aside dis-  
solution of  
society or  
branch.  
59 & 60  
Vict. c. 25.  
s. 79 (6).  
56 & 57  
Vict. c. 39.  
s. 61 (e).

12. The provisions of the Companies Acts, 1862 to 1900, and the rules made thereunder, so far as they relate to winding-up, shall apply to the winding-up of societies registered under the Building Societies Act, 1874, and the Acts amending the same, or under the Industrial and Provident Societies Act, 1893; and the winding-up of any such societies shall be conducted in all respects as if such societies were companies registered under any of the said Companies Acts. Costs shall be taxed according to the scale of costs for the time being in use in the Supreme Court.

Winding-  
up of  
building  
and indus-  
trial and  
provident  
societies.

ORDER  
XLII.

## ORDER XLII.

THE SUCCESSION DUTY ACT, 1853, SECTION 50. THE FINANCE  
ACT, 1894, SECTIONS 10 AND 14.

Appeals  
under 16  
& 17 Vict.  
c. 51. s. 50.  
[New.]

1. An appeal against any assessment of the Commissioners under section fifty of the Succession Duty Act, 1853, shall be by petition intituled in the matter of the Succession Duty Act, 1853, and the Acts amending the same, and in the matter of the particular succession ; and Rules 5 to 9 and 11 of this Order shall apply to the service of and proceedings on such petition. [New.]

Delivery of  
statement  
of grounds of  
appeal under  
57 & 58 Vict.  
c. 30. s. 10.

2. Any aggrieved person within the meaning of section ten, sub-section (1) of the Finance Act, 1894, who desires to appeal to the court under sub-section (5) in any of the cases mentioned in the said sub-section (1), shall, within one month from the date of the notification to him or his solicitor of the decision or claim of the Commissioners, deliver to them a written statement of the grounds of such appeal.

The statement shall state specifically the several grounds upon which the appellant contends that the decision or claim of the Commissioners was erroneous, and if he contends that the value put upon any property by the Commissioners is excessive, he shall therein identify such property, and state the value which he contends should be put upon the same. [Order XXXVIII.A., Rule 1.]

Reply  
thereto.

3. The Commissioners shall, within one month from the delivery to them of the statement of the grounds of appeal, notify to the appellant or his solicitor whether they have withdrawn the decision or claim appealed against, or have determined to maintain the same, either in whole or in part. [Rule 2.]

Appeal by  
petition.

4. At any time thereafter, not exceeding one month from the date of the notification by the Commissioners of their determination to maintain their decision or claim, either in whole or in part, the appellant may proceed with his appeal by filing a petition. [Rule 3.]

5. Such petition shall be intituled "In the matter of the Finance Act, 1894, and in the matter of the Estate Duty on the property passing on the death of \_\_\_\_\_, late of \_\_\_\_\_, deceased," and a copy thereof, with a notice of the day and hour on which the petition will be heard, shall be served on the Commissioners in accordance with Rules 3 and 4 of Order XXXVIII. [Rule 4.]

ORDER  
XLII.

Title and  
service of  
petition.

6. Subject to the provisions of these rules, the appellant shall not in his petition state or at the hearing be allowed to rely upon any grounds of appeal not specifically set forth in the statement of the grounds of appeal. [Rule 5.]

Limitation  
of grounds  
of appeal.

7. Unless by consent, or otherwise ordered, only oral evidence shall be admitted at the hearing. [Rule 6.]

Oral  
evidence.

8. The Crown shall have the same right as an ordinary suitor of administering interrogatories and of obtaining discovery and inspection of documents. [Rule 7.]

Interroga-  
tories, &c.

9. The judge may, at any time before or at the hearing, allow the appellant to amend his petition, upon such terms as the judge may think right. [Rule 8.]

Amend-  
ment.

10. An application for leave to bring an appeal without payment or on part payment only of the duty, under the provisions of subsection (4) of section ten of the Finance Act, 1894, shall be made to the judge in accordance with the rules as to interlocutory applications, subject to the following modifications :—

Applica-  
tion for  
leave to  
appeal  
without  
payment of  
duty.

[Rule 9.]

(1) the application shall be made on notice in writing, and on affidavit ;

(2) the appellant shall serve notice of the application on the Commissioners three clear days at least before the day of the hearing of the application, and shall deliver to the Commissioners, with such notice, a copy of any affidavit which he intends to use at the hearing of the application.

ORDER  
XLII.Order on  
petition.

11. Where the judge makes an order upon a petition under this Order, the registrar shall, as soon thereafter as conveniently may be, draw up, seal, and file such order. [Rule 10.]

Proceed-  
ings for  
determina-  
tion of dis-  
putes  
under 57 &  
58 Vict.  
c. 30. s. 14.

12. Proceedings for the determination of a dispute as to the proportion of estate duty to be borne by any property or person under section fourteen of the Finance Act, 1894, shall be commenced by plaint and summons in the ordinary way, in which the person claiming to recover the amount in dispute shall be plaintiff, and the person resisting such payment shall be defendant. Particulars of demand shall be filed in every such proceeding, stating concisely the nature of the dispute, and the relief or order which the plaintiff claims. [Rule 11, Nov., 1900.]

ORDER  
XLIII.

## ORDER XLIII.

TAXATION OF CHARGES OF RETURNING OFFICERS. THE PARLIAMENTARY ELECTIONS (RETURNING OFFICERS) ACT, 1875. THE LOCAL GOVERNMENT ACT, 1888, SECTION 75, Subs. 19.

Applica-  
tion for  
taxation of  
costs of  
election.  
38 & 39  
Vict. c. 84.  
51 & 52  
Vict. c. 41.  
s. 75, sub-  
s. 19.  
Form 423.

1. An application to the court to tax the charges of any returning officer in respect of any election, under the Parliamentary Elections (Returning Officers) Act, 1875, or any Act applying to the said Act, or under any other Act providing for the taxation by the court of costs of elections, shall be made in writing according to the form in the Appendix, and shall state on whose behalf the application is made, and shall contain a submission on the part of the applicant to pay what shall be found to be due on taxation. [Order XXXVIIIb., Rule 1, April, 1895.]

Notice of  
place and  
time for  
taxation.

Form 424.

2. On receipt of such application the court shall fix a place and time for proceeding with such taxation, and the registrar shall issue to the bailiff for service on the applicant and the officer whose account is to be taxed a notice according to the form in the Appendix, signed by the registrar himself, and under the seal of the court, stating the place, day, and hour at and on which the taxation will be proceeded with, and requiring the parties to attend and produce documents and be examined, and warning them that if they do not attend in person or by their solicitors such order will be made and such proceedings taken as to the court shall seem just. [Rule 2.]

3. Where application is made for taxation of the charges of a returning officer, and such officer applies to the court to examine any claim transmitted to him by any person pursuant to section five of the Parliamentary Elections (Returning Officers) Act, 1875, or any Act applying the said section, such application shall be in writing according to the form in the Appendix, and shall contain a submission on the part of the applicant to pay what shall be found due on examination. [Rule 3.]

ORDER  
XLIII.

Application for examination of claim transmitted to returning officer. 38 & 39 Vict. c. 84. s. 5. Form 426.

4. On receipt of any such application the court shall fix a place and time for such examination, which shall take place before the taxation of the charges of the returning officer is concluded, and such taxation shall, if necessary, be adjourned until such examination has been completed. The registrar shall issue to the bailiff for service on the returning officer and the person by whom the claim was transmitted to the returning officer a notice according to the form in the Appendix, signed by the registrar himself, and under the seal of the court, stating the place, day, and hour at and on which such examination will be proceeded with, and requiring the parties to attend and produce documents and be examined, and warning them that if they do not attend in person or by their solicitors such order will be made and such proceedings taken as to the court shall seem just. [Rule 4.]

Notice of time and place for examination.

Form 427.

5. The bailiff shall serve all copies of such notices as hereinbefore mentioned ten clear days at least before the day fixed for any taxation or examination. [Rule 5, altered.]

Service of notices.

6. Unless by consent, or otherwise ordered, oral evidence only shall be admitted on such taxation or examination. [Rule 6.]

Evidence to be oral.

7. The order made on any taxation or examination shall determine the amount payable to or by the returning officer, and shall contain directions as to fees and costs, and as to the addition to the sum allowed to any party of any costs adjudged to be paid to him, or the set-off against such sum of any costs adjudged to be paid by him, and as to the payment of the balance ascertained to be due from any party to any other, and the application of any sum deposited by any party to the proceeding with the returning officer as security for his charges,

Order on taxation or examination of claim.

ORDER  
XLIII.Forms  
425, 428.Certificate  
under 49  
& 50 Vict.  
c. 57. s. 1.  
Form 429.

or advanced to the returning officer on account of his charges ; and such order shall be according to such of the forms in the Appendix as shall be applicable to the case, with such variations as circumstances may require. [Rule 7.]

8. The certificate to be delivered under section one of the Parliamentary Elections (Returning Officers) Act, 1875, Amendment Act, 1886, shall be according to the form in the Appendix. [New.]

ORDER  
XLIV.

## ORDER XLIV.

## THE EMPLOYERS LIABILITY ACT, 1880.

*Service of Summons.*Time for  
issue and  
service of  
summons.  
43 & 44  
Vict. c. 42.

1. A summons in an action brought under the Employers Liability Act, 1880, shall in order to ensure its service be delivered to the bailiff, where it is to be served in the home district thirty-five clear days at least, and where it is to be served in a foreign district thirty-eight clear days at least before the return day, and shall in either case be served thirty clear days at least before the return day thereof. [Order XLIV., Rule 1, amended May, 1899.]

Particulars  
to be filed.

2. Particulars of demand shall be filed by the plaintiff at the time of the entry of the plaint, whatever the amount claimed may be ; and a copy thereof shall be forthwith sent to the judge. [Rule 2.]

What par-  
ticulars of  
demand  
shall state.

3. The particulars of demand shall state in ordinary language the cause of the injury, and the date at which it was sustained, and the amount of compensation claimed, and where the action is brought by more than one plaintiff, the amount of compensation claimed by each plaintiff ; and where the injury of which the plaintiff complains is alleged to have arisen by reason of the act or omission of any person in the service of the defendant, the particulars shall give the name and description of such person. [Rule 3.]

*Jury.*Notice of  
demand  
for jury.  
Forms 142,  
143, 144.

4. Notice of demand for a jury shall be given in writing to the registrar, according to the form in the Appendix, fifteen clear days at least before the return day, and the registrar shall forthwith give notice thereof to the other party, according to the form in the Appendix ; and the summonses to the intended jurors shall be delivered to the bailiff forthwith. [Rule 4.]



*Assessors.*ORDER  
XLIV.

5. Any person who shall, as herein-after provided, be appointed by the judge to act as an assessor in any action, shall be qualified so to act. [Rule 5.]

Qualifica-  
tion of  
assessors.

6. Where no demand for a jury has been made, a party who desires assessors to be appointed shall, ten clear days at least before the return day, file an application according to the form in the Appendix, stating the number of assessors he proposes to be appointed, and the names, addresses, and occupations of the persons who may have expressed their willingness in writing to act as assessors. If the applicant has obtained the consent of the other party to the persons named being appointed, he shall file such consent with his application.

How asses-  
sors to  
be applied  
for.

Form 136.

[Rule 6.]

7. Where an application for the appointment of assessors is made by only one party to an action, the registrar shall forthwith cause to be served on the other party notice of the application according to the form in the Appendix, and the party so served shall as soon as may be after the receipt of the notice .

Applica-  
tion made  
by one  
party only  
to be  
forwarded  
to the other  
party.

Form 138.

[Rule 7,  
revised ;  
see Order  
XXI.,  
Rules  
9, 10.]

(1) inform the registrar in writing whether or not he accepts the appointment of the assessors proposed in such notice, or any of them ; and

(2) if he objects to any of the persons proposed, state in writing the reasons for such objection ; and

(3) if he desires any other assessors to be appointed, file an application for such appointment in accordance with Rule 6 of this Order.

8. Where separate applications are filed by the parties, no objection to the persons proposed shall be made by either party, but the judge may appoint from the persons named in each application one or more assessors, provided that the same number of assessors be appointed from the names given in such applications respectively. [Rule 8.]

Where  
both  
parties  
propose  
assessors.

9. The applications for the appointment of assessors, together with any objections made to the persons proposed, shall be forwarded by the registrar to the judge. [Rule 9.]

Applica-  
tions to be  
forwarded  
to judge.

ORDER  
XLIV.

Appoint-  
ment of  
assessors  
by judge.  
Summon-  
ing of  
assessors.  
Refusal to  
appoint.  
Form 137.  
Form 141.

10. Where the judge grants an application for the appointment of assessors, he shall appoint such of the persons proposed for assessors as he may think fit, subject to the provisions contained in this Order, and return the applications with such appointment to the registrar, and thereupon the registrar shall forthwith summon the assessors named. If the judge does not think fit that assessors shall be summoned, notice thereof shall be given by the registrar to all parties according to the form in the Appendix. [Rule 10, revised.]

Judge,  
whether  
application  
made or  
not, may  
appoint  
assessors.

Form 137.

11 In an action where no demand for a jury has been made, and an application for the appointment of assessors has been filed, the judge may, either before or on the return day, nominate one or more additional persons to act as assessor or assessors in the action. Where no application for assessors has been made, the judge may, if he thinks fit, appoint any one or more persons to act as assessors in the action before or on the return day. Any persons appointed under this rule shall be summoned by the registrar. [Rule 11, revised.]

Where  
assessors  
fail to  
attend.

12. If at the time and place appointed for the trial all or any of the assessors appointed do not attend, the judge may either proceed to try the action with the assistance of such of the assessors, if any, as attend, or he may adjourn the trial generally, or upon any terms which he may think fit ; or he may appoint any person who may be available and who is willing to act, and who is not objected to, or who is objected to on some insufficient ground ; or the judge may try the action without assessors if he thinks fit. [Rule 12.]

Remunera-  
tion of  
assessors.

13. Every person nominated as an assessor shall receive for each day's attendance in every action the sum of two guineas, together with such further sum, if any, for his expenses, as the judge may order. [Rule 13.]

Deposit of  
remunera-  
tion on  
application  
for asses-  
sors.

14. Every person applying for the appointment of assessors shall at the time of filing his application deposit with the registrar the sum of two guineas for each assessor proposed, and such payments shall be considered as costs in the action, unless otherwise ordered by the judge. Provided that where a person proposed as an

assessor has in writing informed the registrar that he does not require his remuneration to be so deposited, no deposit in respect of such person shall be required. Where an action is adjourned, the party at whose instance any assessor has been summoned shall pay such assessor's fee for the day of adjournment forthwith after the order of adjournment is made. [Rule 14, revised ]

ORDER  
XLIV.

Fees on adjournment.

15. Where an action is tried by the judge with the assistance of any assessors in addition to or independently of any assessors proposed by the parties, the remuneration of such assessors shall be borne by the parties or either of them as the judge shall direct. [Rule 15.]

Remuneration of assessors not proposed by the parties but appointed by judge.

16. If after an assessor has been appointed, and before the day of trial the registrar is satisfied that the action has been settled or that the services of such assessor are not required, he shall forthwith countermand the attendance of such assessor, and pay to him one half of the fees paid for his attendance. The other half, less the cost of telegrams and postages, shall be returned by the registrar to the person by whom the fees were paid. [Rule 16a, Feb., 1892.]

Allowance to assessor when services not required.

17. The assessors shall sit in court with the judge, and assist him when required with their opinion and special knowledge for the purpose of ascertaining the amount of compensation, if any, which the plaintiff is entitled to recover. [Rule 17.]

Assessors to sit with judge.

### *Judgment where several plaintiffs.*

18. Where two or more persons are joined as plaintiffs under Order III., Rule 1, and the negligence, act, or omission which is the cause of action is proved, the judgment shall be for all the plaintiffs, but the amount of the sum awarded for damages and the costs ordered to be paid to each plaintiff shall be found and set forth separately in the judgment, and the amount of costs awarded in the action shall be ordered to be paid to such person and in such manner as the judge may think fit. [Rule 18.]

Where more plaintiffs than one, compensation due to each to be found separately.

19. If the defendant fails to pay the several amounts of compensation and the costs awarded in the action, execution against his goods may issue as in an ordinary action ; and if the proceeds of the

Execution in such cases, and apportionment of

ORDER  
XLIV.  
—  
sum  
realized.

execution are insufficient, after deducting all costs, to pay the whole of the amounts awarded, such proceeds shall, after the deduction of all the costs of the action as aforesaid, be apportioned between the several plaintiffs in proportion to the amounts awarded to them respectively. [Rule 19.]

ORDER  
XLV.  
—

## ORDER XLV.

### THE INFERIOR COURTS JUDGMENTS EXTENSION ACT, 1882.

Proof that  
judgment  
is not  
satisfied.  
45 & 46  
Vict. c. 31.

1. Where, under section three of the Inferior Courts Judgments Extension Act, 1882, application is made for the grant of a certificate of a judgment, proof that the judgment has not been satisfied and of the amount remaining unsatisfied shall be given to the satisfaction of the registrar, by affidavit if required. [Order XLV., Rule 1 ; words as to fees omitted.]

When  
certificate  
shall not  
be granted.

2. If the judgment is for payment within a period therein mentioned or by instalments, and such period has not expired or default has not been made in payment of some instalment, the certificate shall not be granted. [Rule 2.]

Names, &c.,  
to be set  
forth in  
certificate.

3. The names, businesses or occupations, and addresses of the parties to be set forth in the certificate shall be those set forth in the books of the court. [Rule 3.]

Indorse-  
ments on  
certificate.  
Form 430.

4. The registrar shall indorse on the certificate the number of the plaint and the amount remaining due on the judgment, according to the books of the court, and after his signature shall add to the certificate the date on which it is granted. [Rule 4.]

Record and  
effect of  
granting  
certificate.

5. Where a certificate of a judgment is granted by a registrar, he shall make on the minute of the judgment a memorandum of having granted such certificate, and thenceforth no further proceeding shall be taken or had upon such judgment in the same court, until the judge or registrar, upon being satisfied that the execution issued in the

court in which the certificate was registered was unproductive, shall order that the judgment may be acted on as if such certificate had not been granted. [Rule 5.]

ORDER  
XLV.  
—

6. There shall be allowed to a solicitor for the costs of obtaining the certificate five shillings, and where an affidavit is required, seven shillings. [Rule 6.]

Costs of  
obtaining  
certificate.

7. The costs, if any, allowed, with the addition of the fee to be paid for the granting of the certificate, shall be indorsed on the certificate by the officer granting the same; which indorsement shall be an authority for the registrar of the court in which the certificate is registered to add the said costs and fee to the amount to be recovered by execution against the goods and chattels of the person against whom the judgment has been obtained. [Rule 7.]

Indorse-  
ment of  
costs  
allowed on  
certificate.

8. The person presenting a certificate for registration shall add to his note of presentation, to be appended to the certificate, a description of the place within the district of the court in which the goods and chattels of the person against whom the judgment has been obtained are, and shall also present a copy thereof, with the indorsement thereon, written on foolscap paper. [Rule 8; words as to fees omitted.]

On present-  
ing certi-  
ficate for  
registra-  
tion a copy  
to be filed.

9. On the presentation of a certificate for registration, with a copy as aforesaid, the registrar shall, if the place within which the goods and chattels of the person against whom the judgment has been obtained are stated to be is within the district of the court of which he is the registrar, seal the certificate and register the same by pasting it into the then current Minute Book of the Court, on or about the last page of such book, and shall seal and date the copy of the certificate and return it to the person presenting the certificate. [Rule 9.]

Registra-  
tion of  
certificate.

10. There shall be allowed to a solicitor for the cost of registering a certificate the sum of five shillings, which, with the fee for registration and the costs, if any, allowed for granting the certificate as shown by

Cost of  
registra-  
tion.

ORDER  
XLV:  
—  
Warrant.  
Form 431.

the indorsement thereon, shall be added to the amount to be recovered. The warrant of execution shall be according to the form in the Appendix. [Rule 10.]

No money  
to be paid  
out except  
on produc-  
tion of  
sealed  
copy.

11. No money shall be paid out of court without production of the sealed copy of the certificate. Provided that, in the event of such copy being lost or destroyed, another copy may be sealed and given to the proper person, upon proof by affidavit or otherwise to the satisfaction of the registrar that the person applying is the proper person, and that he is entitled to the moneys recovered on the judgment, and upon payment of the fee of one shilling. [Rule 11.]

## ORDER XLVI.

ORDER  
XLVI.  
—

### THE MARRIED WOMEN'S PROPERTY ACT, 1882.

Applica-  
tions under  
45 & 46  
Vict. c. 75:  
s. 11.

1. An application to the court for the appointment of a trustee or new trustee under section eleven of the Married Women's Property Act, 1882, shall be made by petition, and the same procedure shall be followed and costs allowed as on any other petition to the court, regard being had to the amount of the subject matter of the petition. [New.]

Summons  
and parti-  
culars on  
application  
under 45 &  
46 Vict.  
c. 75. s. 17:  
Form 433.  
Costs.

2. Where application is made under section seventeen of the Married Women's Property Act, 1882, particulars of the question to be submitted to the decision of the court shall be filed, and thereupon a summons shall be issued according to the form in the Appendix, and the same fee shall be taken as upon the entry of a plaint. All subsequent proceedings shall be had as if the proceeding had been commenced by the entry of a plaint, and the proceeding shall be deemed to be a plaint: and the judge shall direct upon what scale the costs of the proceedings shall be taxed. [Order XLVI., Rules 1 & 2.]

## ORDER XLVII.

ORDER  
XLVII.  
—

[Order XLVII.]

### THE GUARDIANSHIP OF INFANTS ACT, 1886.

Petitions.  
49 & 50  
Vict. c. 27.

1. An application under the Guardianship of Infants Act, 1886, shall be made by petition.

2. A petition under section two of the said Act may be filed by any next friend of the infant, and shall be served upon the mother of the infant.

ORDER  
XLVII.

Under s. 2.

3. A petition under section three, sub-section two, of the said Act may be filed by any next friend of the infant, and shall be served upon the father of the infant.

Under s. 3  
by next  
friend.

4. A petition under section three, sub-section three, of the said Act may be filed by any guardian of the infant, and shall be served upon the other guardian or guardians.

Under s. 3  
by guar-  
dian.

5. A petition under section five of the said Act filed by the mother of any infant shall be served upon the father of the infant, or, if he be dead, upon the guardian or guardians of the infant, if any such there be, other than the mother.

Under s. 5  
by mother.

6. A petition under section five of the said Act filed by the father of any infant shall be served upon the mother of the infant, or, if she be dead, upon the guardian or guardians of the infant, if any such there be, other than the father.

Under s. 5  
by father.

7. A petition under section five of the said Act filed by any guardian of an infant, other than a parent, shall be served upon the other guardian or guardians of the infant, if any such there be, other than a surviving parent, and also upon the surviving parent, if any.

Under s. 5  
by guar-  
dian

8. The judge may direct such persons, other than those above mentioned, to be served with the petition as he may think fit

Service by  
order of  
judge.

9. A petition for the appointment of a guardian of an infant shall show—

What peti-  
tion must  
show.

The age of the infant ; the nature and amount of the infant's fortune and income ; and what relations the infant has.

10. On a petition under the said Act the same procedure shall be followed and costs allowed as on any other petition to the court, regard being had to the amount of the property of the infant. [New.]

Procedure  
and costs.

ORDER  
XLVIII.

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ORDER XLVIII.

[Order XLVIII.]

CHARITABLE TRUSTS.

- Record. 1. The registrar of every court shall keep a book, to be called  
"The Charitable Trusts Book," in which all proceedings taken in that  
court in matters of charitable trusts shall be recorded according to  
Form 437 the form in the Appendix.
- Proceed- 2. Where any person has obtained the required order or certificate  
ings by from the Charity Commissioners, and is desirous of taking proceedings  
private in the court, he shall produce such order or certificate to the  
persons. registrar, who shall retain and file the same in numerical order  
in his office; and the party producing such order or certificate  
shall be deemed to be the plaintiff in such proceedings, and the  
parties summoned under Rule 4 of this Order shall be deemed to  
be the defendants.
- Proceed- 3. When the Attorney General proposes to take proceedings in  
ings by the court, he shall cause to be delivered or transmitted to the registrar  
Attorney a written statement showing the nature and object of the proposed  
General. proceedings, and the registrar shall retain and file such statement  
in numerical order in his office; and the Attorney General shall in  
such proceedings be deemed to be the plaintiff, and the parties  
summoned under Rule 4 of this Order shall be deemed to be the  
defendants.
- Summons. 4. Upon the production of any order, certificate, or statement in  
this Order before mentioned, the registrar shall at the instance of the  
plaintiff prepare a summons thereon according to the form in the  
Form 434. Appendix, in which shall be stated the substance of the order,  
certificate, or statement, and he shall make as many copies thereof  
as there are parties required by the plaintiff, in writing, to be  
summoned, and two additional copies, the one to be filed in his office,  
and the other to be transmitted to the Charity Commissioners.
- Notice to 5. The registrar, if required by the plaintiff, shall prepare a notice  
attend pro- to attend proceedings, according to the form in the Appendix, to be  
ceedings. served on any persons indicated by the plaintiff in writing besides



those summoned under the last preceding rule ; and the registrar shall make as many copies thereof as there are persons to whom such notice is to be given, and two additional copies, one to be filed in his office, and the other to be transmitted to the Charity Commissioners.

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XLVIII.  
Form 435.

6. The registrar shall forthwith transmit by post prepaid a copy of the summons to each of the parties required to appear, and a copy of the notice to attend proceedings to each of the persons indicated by the plaintiff, and such transmission shall be sufficient service, unless the judge in any case otherwise directs.

Service of  
summons  
and notice  
to attend.

7. Where the plaintiff does not require any summons or notice to attend proceedings to be issued, the registrar shall prepare a notice of hearing, according to the form in the Appendix, and two additional copies thereof, one to be filed in his office, and the other to be transmitted to the Charity Commissioners, and shall either deliver such notice to the plaintiff, or cause it to be served on him by prepaid post letter, unless the judge in any case otherwise directs.

Notice of  
hearing  
where no  
summons  
or notice  
to attend  
issued.  
Form 436.

8. In all cases it shall be competent for the registrar, if required by the plaintiff, to summon some persons, and to serve others with either or both of the said notices ; or to serve a notice of hearing on the plaintiff, and a notice to attend proceedings on any other person.

Summons  
and notices  
to be issued  
in certain  
cases.

9. In all cases it shall be competent for the judge to direct what persons or additional persons shall be served with a summons or notice to attend proceedings or notice of hearing.

Service by  
order of  
judge.

10. Upon the requisition of the Charity Commissioners, the registrar shall transmit to them at their office, by post or otherwise, a copy of the judge's note of the evidence taken at the hearing, or such part thereof as may be required by the Commissioners, sealed with the seal of the court.

Transmis-  
sion of  
judge's  
note to  
Charity  
Commis-  
sioners.

11. Upon the requisition of the Attorney General in proceedings instituted by him, the registrar shall transmit to him, by post or

Transmis-  
sion of  
judge's

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note to  
Attorney  
General.

Copy of  
proceed-  
ings to be  
sent to  
Commis-  
sioners.

otherwise, a copy of the judge's note of the evidence taken at the hearing, or such part thereof as may be required by the Attorney General.

12. A copy of the summons, notice to attend proceedings, or notice to appear, together with a copy of the order made by the court, shall in all cases be transmitted by the registrar forthwith after the hearing, by post or otherwise, as the judge shall direct, to the office of the Commissioners.

Fees where  
income of  
charity ex-  
ceeds 10%.

13. Where the annual income of the charity exceeds ten pounds, the court fees shall be payable as in cases within the ordinary jurisdiction of the court, without prejudice to the privilege of the Attorney General as to costs, and the charitable funds may be made liable to the payment thereof, at the discretion of the judge.

Fees where  
income  
does not  
exceed 10%.

14. Where the annual income of the Charity does not exceed ten pounds, no court fees shall be payable out of the funds of the Charity; nor shall any court fees be paid by any party to the proceeding, unless the judge shall, in his discretion, order any of the parties to the proceeding before him to pay such fees as he shall think fit, without prejudice to the privilege of the Attorney General as to costs.

Fees where  
several  
charities  
join.

15. Where more charities than one are joined in one application, one set of court fees only shall be payable, such fees to be calculated on the aggregate amount of the incomes of the charities so joining.

Fees how  
calculated.  
51 & 52  
Vict. c. 43.  
s. 138.

16. Where court fees are payable, they shall be calculated according to the scale of fees applicable to proceedings for the recovery of tenements under section one hundred and thirty-eight of the Act, the annual income of the charity, in like manner as the annual rent of the tenement, being treated as the basis of calculation.

Who may  
appear at  
hearing.

17. At the hearing, any person who has been summoned or has received notice to attend proceedings, or who is authorised to apply under section forty-three of the Charitable Trusts Act, 1853, may appear and be heard in opposition to the application authorised by

the order or certificate of the Commissioners, or the statement of the Attorney General, subject to the payment of such costs as the judge may direct.

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18. The order or certificate of the Commissioners, or the statement of the Attorney General, as to the amount of the annual income, shall be conclusive, and the other statements contained in the certificate or order of the Commissioners, or the statement of the Attorney General shall, unless disputed, be taken as true.

Effect of  
Commissioners'  
order or  
certificate,  
or Attorney  
General's  
statement.

19. The enactments, orders as to fees, practice, and forms in force and used in the county courts shall, subject to the rules of this Order, be adopted with reference to proceedings in matters of charitable trusts, so far as the same are applicable, *mutatis mutandis*.

General  
practice,  
&c., of the  
court to be  
adopted.

20. The accounts of trustees of charities, when delivered to the registrar, shall be filed by him in numerical order, and annually indexed alphabetically according to the titles of such charities, or the names or descriptions by which they are known, or may be identified.

Registrar's  
duties as to  
trustees'  
accounts.

*The Charitable Trusts (Recovery) Act, 1891.*

21. It shall not be necessary to make the trustees (if any) or persons acting in the administration of the charity, or the Official Trustee of Charity Lands, or the Official Trustees of Charitable Funds, parties to any proceeding under the Charitable Trusts (Recovery) Act, 1891, unless the judge before or at the trial otherwise orders; and for the purposes of proceedings under the said Act the Board shall be deemed to represent all parties interested in the charity. [Order XLVIII A, Rule 1, July, 1892.]

Parties to  
proceed-  
ings under  
54 & 55  
Vict. c. 17.

22. The notice in section five, sub-section one, of the said Act mentioned shall be a two days notice in writing, and shall be served on the opposite party; but the court may give leave for shorter or substituted or other notice. [Rule 2.]

Notice  
under  
54 & 55  
Vict. c. 17.  
s. 5.

23. Any order for production of documents or other discovery against the Board shall be made upon their secretary for the time being. [Rule 3.]

Discovery.

ORDER  
XLVIII.

Costs.

[New.]

*Costs.*

24. Where costs are allowed in any proceeding under the Charitable Trusts Acts, 1853 to 1891, and this Order, the judge may order the costs to be taxed under Column A, B, or C, and in default of any such order they shall be taxed under Column B, without prejudice to the privilege of the Attorney General as to costs.

ORDER  
XLIX.

## ORDER XLIX.

[Order XLIXA., Nov., 1900.]

## PROBATE AND LETTERS OF ADMINISTRATION.

Proceedings  
under Court  
of Probate  
Acts, 1857  
and 1858.  
20 & 21 Vict.  
c. 77. 21 & 22  
Vict. c. 95.

1. Proceedings under the Court of Probate Act, 1857, as amended by the Court of Probate Act, 1858, or by any other Act, shall be commenced by plaint and summons in the ordinary way. The plaint and all subsequent proceedings shall be intituled "The Court of Probate Acts, 1857 and 1858."

Parties  
where  
caveat  
lodged.

2. Where any person has lodged a caveat against the grant of probate or letters of administration, and proceedings are taken to obtain such grant, the person applying for the probate or letters of administration shall be plaintiff, and the person who has lodged the caveat shall be defendant.

Parties on  
application  
to revoke  
grant.

3. In proceedings for the revocation of probate or letters of administration the person applying for such revocation shall be plaintiff, and the person against whom the application is made shall be defendant.

Production  
of autho-  
rity of  
High  
Court.

4. Before the entry of the plaint the plaintiff shall lodge with the registrar an office copy of the minute of the High Court authorizing the commencement of proceedings.

Particu-  
lars.

5. Particulars of demand shall be filed in all cases, stating concisely the nature of the proceeding, and the relief or order which the plaintiff claims.

6. In a Probate action any person not named in the summons may intervene and appear in the action, on filing an affidavit showing how he is interested in the estate of the deceased.

[New ; *see* R.S.C. Order XII., Rule 23.]

ORDER  
XLIX.

Interven-  
tion by  
person not  
named in  
summons.

7. The registrar on issuing a plaint for the revocation of the grant of probate or letters of administration shall give notice by post, according to the form in the Appendix, to the district probate registrar by whom the probate or letters of administration has or have been granted, to produce the original will or other necessary documents at the court at which the plaint is to be heard. [Rule 6.]

Notice to  
district  
registrar.  
Form 443.

8. The certificate to be given by the registrar under section fifty-five of the Court of Probate Act, 1857, shall be according to the form in the Appendix. [Rule 7.]

Certificate.  
20 & 21  
Vict. c. 77.  
s. 55.  
Form 444.

9. The order of the judge on the hearing of the plaint shall be according to the form in the Appendix, and a copy of such order shall be sent by post to the plaintiff and the defendant and any party intervening. [Rule 8.]

Order.  
Form 445.

10. Where application for the grant or revocation of probate or letters of administration has been made at the principal registry of the Probate Division of the High Court, and any contentious matter arises out of such application, and a judge of the said division sends the action or matter to the county court, the provisions of this Order and the provisions of Order XXXIII. relating to actions or matters remitted from the Chancery Division of the High Court to a county court shall apply to the proceedings in the county court in the action or matter so sent to the county court. [Rule 9.]

Transmis-  
sion of  
action from  
High  
Court.

11. The judge may order the costs of proceedings under the said Acts to be taxed either under Column B. or Column C., and in default of any such order they shall be taxed under column B. ; and Rule 8 of Order LIII. shall apply to such proceedings. [Rule 10.]

Costs.

12. In proceedings under this Order for which no provision is otherwise made the rules and practice of the Probate Division of the High Court shall be followed so far as they are applicable. [Rule 11.]

Practice in  
proceed-  
ings for  
which no  
provision  
made.

## ORDER L.

## ORDER L.

## PROCEEDINGS UNDER ACTS CONFERRING JURISDICTION ON THE COURTS.

*The Inclosure, &c., Expenses Act, 1868.*

Applica-  
tions under  
31 & 32  
Vict. c. 89.  
ss. 3, 4.  
[New.]

1. An application to the court under section three or section four of the Inclosure, &c., Expenses Act, 1868, shall be made by action commenced by plaintiff and summons in the ordinary way. Particulars of demand shall be filed with every such application, stating concisely the relief or order which the plaintiff claims.

Costs in  
actions  
under  
31 & 32  
Vict. c. 89.  
s. 4.

2. The costs in any action under the said section four shall be taxed on such scale as the judge shall direct, and in default of such direction shall be taxed under Column B. [New.]

Non-com-  
pliance  
with order  
for  
delivery  
under 31 &  
32 Vict.  
c. 89. s. 4.

3. If the defendant in any action under the said section four fails to comply with an order for delivery made in such action, he shall be liable to attachment. [New.]

*The Solicitors Act, 1870.*

Applica-  
tions  
under  
33 & 34  
Vict. c. 28.  
ss. 8, 10.

4. An application to the court under the Solicitors Act, 1870, shall be made by petition intituled in the matter of the Act and of the agreement; and the same procedure shall be followed and costs allowed as on any other petition to the court, regard being had to the amount of the subject matter of the petition. [New.]

*The Ballot Act, 1872.*

Applica-  
tions under  
35 & 36  
Vict. c. 33.  
sched. 1,  
Rules 40,  
41, 64.

5. An application to the court under Rule 40 or Rule 41 in the first schedule to the Ballot Act, 1872, as applied by Rule 64 in the said schedule, shall be made in writing, and shall be intituled in the matter of the Act and of the particular matter. Such application shall be made in accordance with the rules for the time being in force as to interlocutory applications, save that, unless by consent or otherwise ordered, only oral evidence shall be admitted. Costs, if allowed, shall be taxed on such scale as the judge shall direct. [New.]

*The Local Loans Act, 1875.*

Applica-  
tion for  
appoint-  
ment of  
receiver

6. An application to the court for the appointment of a receiver under the provisions of section twelve of The Local Loans Act, 1875, shall be made by petition; and the same procedure shall be followed

and the same fees paid and costs allowed as on any other petition to the court in which the subject matter of the petition exceeds one hundred pounds. [Order XLIII., Rule 1.]

ORDER L.

under  
38 & 39  
Vict. c. 83.  
s. 12.

7. An application to the judge for the rectification of a register of nominal securities under the provisions of section twenty five of The Local Loans Act, 1875, shall be made by petition ; and the same procedure shall be followed and the same fees paid and costs allowed as on any other petition to the court in which the subject matter of the petition exceeds twenty pounds and does not exceed one hundred pounds. [Rule 2.]

Applica-  
tion for  
rectifica-  
tion of  
register  
under  
38 & 39  
Vict. c. 83.  
s. 25.

8. The court to which petitions shall be presented under the two preceding rules of this Order shall be the court of the district in which the local authority exercises its authority. [Rule 3.]

To what  
court peti-  
tion to be  
presented.

*The Commons Act, 1876, Section 30.*

9. Proceedings under section thirty of the Commons Act, 1876, shall be by action commenced by plaint and summons in the ordinary way. Particulars of demand shall be filed in every such action, stating concisely the relief or order which the plaintiff claims. [New.]

Proceed-  
ings under  
39 & 40  
Vict. c. 56.

*The Sale of Exhausted Parish Lands Act, 1876.*

10. Where the Local Government Board directs that proceedings may be taken under section three of the Sale of Exhausted Parish Lands Act, 1876, such proceedings may be taken as follows :—

Proceed-  
ings under  
39 & 40  
Vict. c. 62.  
s. 3.

(a.) If there are disputed claims to any interest in any land or the purchase money of any land, any person claiming any such interest may take proceedings by action commenced by plaint and summons in the ordinary way against the other persons claiming any interest, and the person or authority in whom such land is vested, or in whose hands such purchase money may be. Particulars of demand shall be filed in such action, stating concisely the relief or order which the plaintiff claims. The person or authority in whose hands such purchase money may be may at any time after service of the summons

## ORDER L.

pay such purchase money into court, and thereupon further proceedings against such person or authority shall be stayed. The judge at the trial of the action shall decide upon the rights of the several persons claiming any interest in the land or purchase money, and shall make such order for the purpose of giving effect to such rights, and as to costs, as may be just.

(b.) If any person entitled to any interest in the purchase money of any land, where there is no dispute, is under legal disability, then

(i.) the person or authority in whose hands such purchase money may be may pay the same into court under section seventy of the Act, in accordance with Rule 9 of Order XXXVIII., and that rule and the subsequent rules of that Order shall apply to the payment into court and subsequent disposal of such purchase money ; or

(ii.) a petition may be filed on behalf of the person under disability, asking for the directions of the court as to the disposal of such purchase money. If such petition is filed it shall be served on the person or authority in whose hands such purchase money may be, and the same procedure shall be followed and costs allowed as on any other petition to the court. The person or authority served with such petition may at any time after service pay the purchase money into court, and thereupon further proceedings against such person or authority shall be stayed. [New.]

*The Telegraph Act, 1878, Section 4.*

Applications under 41 & 42 Vict. c. 76. s. 4. 11. (1.) Any difference referred to the judge under section four of the Telegraph Act, 1878, may be so referred by either of the parties to the difference filing with the registrar an application to the judge to hear and determine such difference, which application shall be intituled in the manner of the Act and of the difference, and shall be entered and numbered and reckoned as a plaint.



(2.) Particulars shall be appended or annexed to the application, containing

ORDER L.

Particulars  
and  
affidavit.

(a.) a concise statement of the grounds on which the application is made, and of the relief or order which the applicant claims ;

(b.) the full names and addresses of the respondents and of the applicant, and of his solicitor, if the proceedings are commenced through a solicitor ;

and the application shall be supported by an affidavit setting forth the circumstances in which and the grounds on which the application is made.

(3.) The applicant shall deliver to the registrar with the application, particulars, and affidavit, a copy thereof for the judge, and a copy for each respondent to be served.

Copies for  
judge and  
respon-  
dents.

(4.) On the filing of the application the registrar shall fix the hearing thereof before the judge for any court appointed to be held within twenty-eight days from the date of the application, but the date of hearing shall be so fixed as to allow the copies of the application, particulars, and affidavit to be served on the respondents ten clear days at least before the date so fixed.

Fixing day  
of hearing  
by regis-  
trar.

(5.) If there is no such court available, the registrar shall send notice of the application to the judge, who shall, as soon as conveniently may be, appoint a day for the hearing of the application. Such day shall be so fixed as to allow the copies of the application, particulars, and affidavit to be served on the respondents ten clear days at least before the date so fixed.

Fixing day  
of hearing  
by judge.

(6.) On the day for the hearing of the application being fixed, the registrar shall give or send by post notice in writing to the applicant, stating the place at which and the day and hour on and at which the application will be heard, and shall issue the copies of the application, particulars, and affidavit, under the seal of the court, for service on the respondents, together with notices signed by the registrar himself and under the seal of the court, stating the place at which and the day and hour on and at which the application will be heard, and that if the respondents do not attend in person or by their solicitors such order will be made and proceedings taken as the judge may think just and expedient.

Notice to  
parties.  
[Conf.  
forms 419,  
420.]

- ORDER L.** (7.) The copies and notices mentioned in the last preceding paragraph shall be served on each respondent ten clear days at least before the day fixed for the hearing, unless such respondent, or his solicitor on his behalf, agrees to accept shorter service.
- Service on respondents.**
- By whom service may be effected.** (8.) Such copies and notices may be served—  
 (a.) by a bailiff of a court ;  
 or, at the request of the applicant or his solicitor,  
 (b.) by the applicant, or some clerk or servant in his permanent and exclusive employ ; or  
 (c.) by the applicant's solicitor, or a solicitor acting as agent for such solicitor, or some person in the employ of either of them.
- Mode of service.** (9.) Service may be effected either in accordance with the rules as to service of default summonses. or by registered post.
- Where service effected otherwise than by bailiff.** (10.) Where service is effected otherwise than by a bailiff, a copy of the document served, with the date and mode of service indorsed thereon, shall within three clear days next after the date of service, or such further time as may be allowed by the registrar of the court issuing such document, be delivered or transmitted to such registrar by the applicant or his solicitor. The applicant or his solicitor shall also deliver or transmit to the registrar an affidavit of the service of such document, according to the form in the Appendix, with such variations as the circumstances of the case may require.
- Form 37.**
- Affidavits by respondents.** (11.) Any affidavit intended to be used by any respondent on the hearing of the application shall be filed and a copy thereof shall be served on the applicant four clear days at least before the hearing of the application, or, if short service of the notice of the application has been accepted, in such reasonable time before the hearing as the date of service will allow.
- Attendance for cross examination** (12.) A deponent to an affidavit shall on notice from the other side attend the hearing for cross-examination ; and witnesses may be orally examined on hearing of the application in the same manner as on the hearing of an action.
- Procedure on application.** (13.) Subject to the provisions of section four of the Telegraph Act, 1878, and the enactments therein referred to, the procedure on an application shall be the same as the procedure in an action commenced

in the court by plaint and summons in the ordinary way, and determined by the judge without a jury; and the statutory provisions and rules for the time being in force relating to such actions shall, with the necessary modifications, apply to such application accordingly; and in the application of such provisions and rules the application shall be deemed to be a summons with particulars annexed, the day fixed for proceeding with the application shall be deemed to be the return day, and the applicant and respondent shall be deemed to be plaintiff and defendant respectively.

ORDER L.

(14.) The award of the judge shall be prepared by the registrar and signed by the judge, and shall be sealed, filed, and served on all persons affected thereby, and shall be enforceable in the same manner as a judgment or order of the court. Award.

(15.) The judge shall have power at any time to correct any clerical mistake or error in such award arising from any accidental slip or omission.

(16.) Costs awarded by the judge shall be taxed on such scale as the judge shall direct, and in default of such direction shall be taxed under Column B. [New.] Costs.

*The Inebriates Acts, 1879 to 1898.*

12. An application to the judge under section eighteen of the Inebriates Act, 1879; shall be intituled in the matter of the Act and of the person detained, and shall be made in accordance with the rules for the time being in force as to interlocutory applications, and supported by affidavit. [New.] Applications under 42 & 43 Vict. c. 19. s. 18.

13. An application under section twelve of the Inebriates Act, 1898, shall be made by petition, and the same procedure shall be followed and the same costs allowed as on a petition under Order XXXVIII. [New.] Applications under 61 & 62 Vict. c. 60. s. 12.

*The Army Act, 1881, Section 115.*

14. An application for the determination of a difference under section one hundred and fifteen of the Army Act, 1881, shall be made by action commenced by plaint and summons in the ordinary way. Particulars of demand shall be filed with every such application, stating concisely the relief or other order which the plaintiff claims. [New.] Applications under 44 & 45 Vict. c. 58 s. 115.

## ORDER L.

*The Allotments Extension Act, 1882.*

Applica-  
tions under  
45 & 46  
Vict. c. 86.  
schedule,  
pars. 2, 4.  
[New.]

15. An application to the judge under paragraph 2 or paragraph 4 in the schedule to the Allotments Extension Act, shall be intituled in the matter of the Act and of the land, and shall be made in accordance with the rules for the time being in force as to interlocutory applications, and supported by affidavit. If an application is made by any other person than the trustees in whom the land is vested, it shall be made on notice to such trustees. [New.]

*The Municipal Elections (Corrupt and Illegal Practices) Act, 1884.*

Applica-  
tions under  
47 & 48  
Vict. c. 70.  
s. 21 (6).  
[New.]

16. An application to the court under sub-section (6) of section twenty-one of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall be intituled in the matter of the Act and of the election, and shall be made in accordance with the rules for the time being in force as to interlocutory applications, and supported by affidavit. The court may direct notice of such application to be given to any rival candidate at the election, or to the returning officer.

*The Lunacy Act, 1890.*

Applica-  
tions under  
53 & 54  
Vict. c. 5.  
ss. 132, 300.

17. An application to the judge under section one hundred and thirty-two or section three hundred of the Lunacy Act, 1890, shall be made by petition ; and the same procedure shall be followed and the same costs allowed as on a petition under Order XXXVIII. [Order XLIIb., Feb., 1892.]

*The Open Spaces Act, 1890.*

Applica-  
tions under  
53 & 54  
Vict. c. 15.

18. An application to the court under the Open Spaces Act, 1890, shall be made by petition intituled in the matter of the Act and of the open space in respect of which the application is made ; and the same procedure shall be followed and the same costs allowed as on any other petition to the court, the annual value of the open space being treated as the basis for determining the scale of costs. [New.]

*The Brine Pumping (Compensation for Subsidence) Act, 1891.*

[Substituted for Order XLIIA., Feb., 1892.]

Appeals  
under 54 &  
55; Vict.  
c. 40. s. 7.

19. Any person desirous of appealing to the court under section twenty-seven of the Brine Pumping (Compensation for Subsidence) Act, 1891, shall within fourteen days from the date of giving

notice of appeal file with the registrar a written statement of the decision of the Board and of the grounds of appeal against such decision, together with as many copies thereof as there are respondents to the appeal. ORDER L.

20. The registrar shall forthwith on the filing of the said statement and copies enter a complaint and issue a summons calling upon the Board and (in case of an appeal against the allowance of a claim or any item thereof) upon the claimant to show cause why the decision of the Board should not be reversed or modified, and shall annex to the summons for service on each respondent a copy of the said statement, which copy shall be deemed to be part of the summons. Entry of  
complaint and  
issue of  
summons.  
[Conf.  
Form  
446.]

21. The practice, procedure, and costs in an action shall be applicable to an appeal under the said section. Practice  
and costs.

*The Merchant Shipping Act, 1894, Section 610.*

22. A pilot desirous of appealing under the Merchant Shipping Act, 1894, section six hundred and ten, from the decision of a pilotage authority shall within thirty days of the giving of the decision (or within such further time as may be allowed by the court) file with the registrar of the county court having jurisdiction in Admiralty within the port for which the pilot is licensed two copies of the said decision, together with a written statement in duplicate of the grounds of appeal. [Order XXXIXA., Rule 1, Dec. 1889.] Appeals  
under 57 &  
58 Vict.  
c. 60. s. 610.

23. The registrar shall forthwith upon the filing of the said copies and statement enter a complaint and issue a summons calling upon the pilotage authority to show cause why the decision should not be reversed or modified, and shall annex to the summons for service a copy of the decision appealed against and one of the statements of grounds of appeal, which copy and statement shall be deemed to be part of the summons. [Rule 2.] Entry of  
complaint and  
issue of  
summons.  
Form 446.

24. The summons shall be served upon either the secretary or clerk of the pilotage authority, if such there be, and, if not, then upon some member of the authority. [Rule 3.] Service of  
summons.

**ORDER L.** 25. The assessor shall be selected from the court list of Admiralty assessors, except where the pilot has been licensed by the Trinity House for any district on the coast of England or Wales, when the assessor shall be selected from the Brethren of the Trinity House. [Rule 4.]

Notice of selection. Form 447. Hearing of objections. [Conf. Form 138.] 26. The registrar shall send to each party to the action a notice stating the name and address of the assessor selected, and such party shall as soon as may be after receipt of the notice inform the registrar in writing whether or not he accepts the assessor so selected: and where any party does not accept the assessor so selected, the procedure prescribed by Order XXI., Rule 10, shall be followed. [New.]

Summoning of assessor. 27. The assessor, when selected, shall be summoned by the registrar in accordance with Order XXXIX., Rule 91. [New.]

Remuneration of assessor. 28. The remuneration of the assessor shall be the same and shall be paid and be borne in the same manner as in an Admiralty action in which the amount claimed exceeds one hundred pounds, and the judge requires the assistance of assessors. [Substituted for Order XXXIXA., Rule 5.]

Practice and costs. 29. The practice, procedure, and costs in an action shall be applicable to an appeal under the said section. [Rule 6.]

*The London Building Act, 1894.*

Appeals under 57 & 58 Vict. c. cxxiii. s. 91. 30. (1.) A party desirous of appealing from an award under section ninety-one of the London Building Act, 1894, shall, within fourteen days from the date of the delivery of the award file with the registrar two copies of the award, together with a written statement in duplicate of the grounds of appeal.

[Conf. Form 446.] (2.) The registrar shall forthwith upon the filing of the said copies and statement enter a plaint and issue a summons calling upon the other party to show cause why the award should not be rescinded or modified, and shall annex to the summons for service a copy of the award and one of the statements of the grounds of appeal, which copy and statement shall be deemed to be part of the summons.

(3.) The practice, procedure, and costs in an action shall be ORDER L. applicable to an appeal under the said section. [New.]

31. An application to the court under section ninety-four of the London Buildings Act, 1894, to settle the security to be given in any case mentioned in the said section shall be made by action commenced by plaint and summons in the ordinary way. Particulars of demand shall be filed with every such application, stating concisely the relief or order which the plaintiff claims. [New.]

Applications under 57 & 58 Vict. c. cexiii. s. 94.

32. An application to the court under section one hundred and ninety six of the London Buildings Act, 1894, shall be made by petition; and the same practice, procedure and costs shall be applicable as on any other petition to the court. [New.]

Applications under 57 & 58 Vict. c. ccxiii. s. 196.

*The Money-lenders Act, 1900.*

33. (1.) Where proceedings are taken by a money-lender, the powers of the court under sub-section 1 of section one of the Money-lenders Act, 1900, may be exercised at any stage of the proceedings, and whether notice has or has not been given by the defendant of his intention to apply to the court to exercise such powers; subject, nevertheless, where no notice or insufficient notice of such intention has been given, to such terms as to adjournment, furnishing of particulars, costs, and otherwise, as may be just.

Proceedings under Money-lenders Act, 1900. 63 & 64 Vict. c. 51. s. 1.

(2.) An application to the court under sub-section 2 of section one of the said Act, at the instance of a borrower or surety or other person liable, shall be by action commenced by plaint and summons in the ordinary way. Particulars of demand shall be filed in such action, stating concisely the grounds on which the application is made, and the relief which the plaintiff claims. [Order LI., Rule 24*b*, Jan. 1901.]

*The Factory and Workshop Act, 1901, Section 14, Sub-section 4.*

34. An application to the court under section fourteen, sub-section four, of the Factory and Workshop Act, 1901, shall be made by action commenced by plaint and summons in the ordinary way. Particulars of demand shall be filed with every such application, stating concisely the relief or order which the plaintiff claims. [New.]

Applications under 1 Edw. 7 c. 22. s. 14 (4).

**ORDER L.***Proceedings under other Acts.*

Proceedings under Acts not referred to in rules.

[Substituted for Order LI., Rule 25.]

35. Where by any Act not mentioned in these rules proceedings are authorised or directed to be taken in a county court, such proceedings shall be commenced by action where the object of the proceedings is to obtain relief against any person, or to compel any person to do or abstain from doing any act. Where there is no person against whom an action can be brought, proceedings shall be taken either by petition or in accordance with the rules for the time being in force as to interlocutory applications, and shall be supported by affidavit; but in any case in which an interlocutory application is made the judge may, if he thinks fit, direct a petition to be filed.

Application of general practice prescribed by rules.

36. The general practice of the court prescribed by these rules shall apply to all proceedings whatsoever authorised by any existing or future Act to be commenced or taken in any county court, except in so far as such practice may be inconsistent with the provisions of any such Act, or of any particular rules made as to the procedure under any such Act. [Order LI., Rule 26.]

**ORDER LI.****ORDER LI.**

[Order Lc., 1897.]

**THE STANNARIES COURT (ABOLITION) ACT, 1896.**

Proceedings under 59 & 60 Vict. c. 45.

1. Proceedings commenced in a county court under the jurisdiction and powers transferred to and vested in such court under the Stannaries Court (Abolition) Act, 1896, shall be regulated by the following rules.

*Sittings of the Court.*

Sittings of the court.

2. The days of the sitting of the court shall be those appointed for the transaction of the ordinary general business of the court held in the city or town mentioned in the name of the court, or such other days as the judge may from time to time appoint, either generally as days on which cases commenced under the Stannaries jurisdiction will be tried, or specially for the trial of any particular action, matter, or other proceeding.

Where action may be tried.

3. The judge may try or partly try any action, matter, or other proceeding at any place within the district of the court as fixed for the purposes of the Stannaries jurisdiction.



4. Where application is made to the judge for the trial or part trial of an action, matter, or other proceeding at a place in which a court is not held, the party making the application shall file a præcipe undertaking to provide at his expense a place to the satisfaction of the judge in which the action, matter, or proceeding may be tried, and to pay the necessary expenses of the judge and officers attending at such place.

ORDER LI.

Under-taking for expenses of trial at place where court not held.

[Conf. Form 369.]

*Pursers' and Creditors' Suits abolished.*

5. Pursers' and creditors' suits shall be abolished.

Pursers' and creditors' suits abolished.

*Winding-up of Companies.*

6. Proceedings for the winding-up of companies shall be regulated by, and costs in such proceedings shall be taxed under, the statutory provisions, rules, and scales of costs for the time being in force for the winding up of companies in the county courts.

Proceedings for winding-up of companies.

7. (1.) Solicitors practising as advocates according to the usage prevailing in the Stannaries Court before the first day of January, 1897, will be recognised as such, and entitled to fees as such, when they appear in the character of advocates in any winding-up proceedings before the judge in person at any sitting of the court; but charges in both characters in respect of the same matter or act done in court by the same solicitor will not be allowed.

Costs of solicitors, counsel, and witnesses in winding-up cases.

(2.) In attendances before the judge out of court or before the registrar, solicitors will be considered as attending in that character only, and entitled to fees and necessary expenses as such.

(3.) Upon attending as advocates they will be entitled to fees not exceeding the following:—

On the hearing of any original petition, 2*l.* 2*s.* to 5*l.* 5*s.*

On motions of course, 10*s.* 6*d.*

Other motions, 1*l.* 1*s.*

(4.) On the hearing or argument of or upon a special motion in any winding-up, the registrar will be at liberty to treat it as an original petition, and allow fees of advocates accordingly.

**ORDER LI.** (5.) On the winding-up of companies the registrar in taxing the costs of advocates or solicitors' fees is to have regard to the solvency of the estate or fund, the importance of the matters in issue, and the pecuniary value of the interests involved.

(6.) When counsel are retained to attend before the court, or before the judge out of court, or upon the examination of witnesses out of court, the usual and reasonable fees of counsel for such attendance may be allowed on taxation, if in the opinion of the court such attendance is desirable.

(7.) In the allowances to witnesses the scale of allowances sanctioned by the County Court Rules is to be adopted.

*Actions or Matters within Limits of County Court Jurisdiction.*

**Proceedings in cases within limits of county court jurisdiction.** 8. Proceedings in actions or matters within the limits of the ordinary jurisdiction of the county courts under the County Courts Act, 1888, shall be regulated by, and costs in such proceedings shall be taxed under, the statutory provisions, rules, and scales of costs for the time being in force in the county courts.

**Transfer of actions from one court to another for hearing, and re-transfer after hearing.**  
51 & 52  
Vict. c. 43.  
s. 85. 9. (1.) Where an action or matter commenced in one court is transferred for hearing to any other court, the provisions of section eighty-five of the County Courts Act, 1888, shall apply to such action or matter; but the judge may after the hearing direct the action or matter to be transferred back to the court in which it was commenced: and in that case the certified copy of the proceedings mentioned in the said section eighty-five shall be returned by post to the registrar of such last-mentioned court, with a certified copy of all the proceedings in the court in which the action or matter was heard, and of the order of transfer; and all proceedings subsequent to judgment shall be taken in the court to which such action or matter is transferred back.

(2.) When any transfer is made the costs of the copies of the proceedings, and any fees payable to the registrar of either court, shall be paid by the party on whose application the transfer is made, unless the transfer is made by the judge without any application to transfer being made to him, in which case such costs and fees shall be paid by the plaintiff in the action or matter.

(3.) The registrar by whom any copies are to be transmitted may require deposit of the costs of such copies, and payment of his fees before making or transmitting such copies. ORDER LI.

(4.) The judge may in any case direct by which of the parties such costs and fees are ultimately to be borne ; and if he directs them to be borne by any party other than the party by whom they are paid in the first instance, they shall be allowed to such last-mentioned party as costs in the action or matter.

*Actions or Matters beyond Limits of County Court Jurisdiction.*

10. Proceedings in actions or matters exceeding the limits of the ordinary jurisdiction of the county courts under the County Courts Act, 1888, (hereinafter called proceedings under the Stannaries jurisdiction), shall be regulated by the following rules. Proceedings in cases beyond limits of county court jurisdiction.

11. The records and papers in any proceeding under the Stannaries jurisdiction shall be intituled with the name of the Court, and marked with the words " Stannaries Jurisdiction." Proceedings, how intituled,

12. All actions, suits, and proceedings which before the first day of January, 1897, were called actions, and commenced in the Stannaries Court by writ of summons, shall be called actions, and shall be commenced by entering a plaint and issuing a summons. Actions to be commenced by plaint.

13. The præcipe for the entry of a plaint, and the particulars, shall state an address for service, which shall be within the district of the court, and at which it shall be sufficient to leave all instruments and documents in the action required to be served upon the plaintiff. Matters to be stated in præcipe and particulars.

14. Immediately on the filing of the præcipe the registrar shall enter a plaint and issue a summons. Such summons shall be an ordinary summons, unless the claim of the plaintiff is for a debt or liquidated money demand, in which case the plaintiff may at his option cause a default summons to be issued in accordance with section eighty-six of the County Courts Act, 1888. Plaint and summons.

**ORDER LI.**

Return day  
of ordinary  
summons.

15. Where an ordinary summons is issued, such summons shall be made returnable on a day not less than thirty clear days from the filing of the *præcipe*, unless all parties concur in asking for an earlier day to be fixed. If the judge has already appointed a day or days within two months from the date of the filing of the *præcipe* for the hearing of cases commenced under the Stannaries jurisdiction, the summons shall be made returnable on such day or one of such days. If no such days have been appointed, the registrar shall before issuing the summons apply to the judge to fix a day on which the action will be tried, and the summons shall be made returnable on the day so fixed.

Particu-  
lars.

16. Particulars of demand shall be filed at the time of the entry of the plaint, and a copy thereof shall be forthwith sent to the judge.

Service of  
summons,  
and proof  
thereof.

17. The summons, whether an ordinary or a default summons, may be served by any person by whom a default summons may be served. If it is served on any defendant otherwise than by a bailiff, and such defendant does not appear or give notice of defence or of admission of the claim, proof of service shall, before judgment is entered against such defendant, be made in the manner required for proof of service of a default summons.

Time of  
service of  
ordinary  
summons.

18. An ordinary summons shall be served twenty clear days at least before the return day, unless the defendant consents to accept shorter service. If it is not so served the plaintiff shall apply to have a fresh day fixed for the hearing, so as to admit of service being effected in accordance with this rule.

Fixing  
trial of  
default  
summons  
where  
notice  
given of  
intention  
to defend.

19. Where a defendant to a default summons gives notice to defend, a day shall be fixed for the trial, and the registrar shall send by post to both plaintiff and defendant notice of trial twenty clear days at least before the day so fixed. If the judge has already appointed a day or days within one month of the day on which notice of intention to defend is received by the registrar, for the hearing of cases commenced under the Stannaries jurisdiction, the registrar shall fix such

day or one of such days for the trial. If no such days have been appointed, the registrar shall apply to the judge to fix a day on which the action will be tried, and shall give notice of trial for the day so fixed.

ORDER LI.

20. A defendant to an ordinary summons may enter an appearance in such action by filing a *præcipe*.

Appearance  
to ordinary  
summons.[Conf.  
Form 374.]

21. Where a defendant gives notice to defend a default summons, or enters an appearance to an ordinary summons, the notice of intention to defend or of appearance shall state his name, address, and description, and if he appears or defends by a solicitor, the name of his solicitor, and shall also state an address for service, which shall be within the district of the court, and at which it shall be sufficient to leave all instruments or documents in the action required to be served on such defendant.

Appear-  
ance or  
notice of  
defence.  
Address  
for service

22. (1.) The parties to an action may at any time before the return day agree upon and file a statement of the issues to be tried.

Settlement  
of issues to  
be tried.

(2.) If no such statement is filed, or if it appears to the judge that the issues of fact in dispute are not sufficiently defined by the statement filed, the judge may direct the parties to prepare and file issues or further issues, as the case may be.

(3.) If the parties are unable to agree upon a statement of the issues or further issues, any party may, whether the judge has or has not directed issues or further issues to be filed, apply under Order XV. to have the issue or further issues settled by the court ; and such issues or further issues shall be settled accordingly by the registrar, or, if the parties so request, by the judge.

23. (1.) Where a defendant intends to object to the jurisdiction of the court he shall file a notice of such objection, together with a concise statement of the grounds thereof, at least ten clear days before the return day ; and the provisions of Order X., Rule 10, shall apply to any such notice, or any failure to give such notice.

Objection  
to juris-  
diction.

**ORDER LI.**

(2.) Where such notice is given, any party may apply to the judge in accordance with Order XV. for an order directing that the question of jurisdiction be decided separately before the action is brought on for trial ; and the judge may make such order accordingly, or may direct that the decision of such question be reserved till the trial of the action.

Notice of demand for jury. Forms 142-144.

24. Notice of a demand for a jury shall be given in writing to the registrar fifteen clear days at least before the return day, and the registrar shall forthwith give notice thereof to the other party ; and the summonses to the intended jurors shall be delivered to the bailiff forthwith.

General provisions as to proceedings.

25. Subject to the foregoing rules, the proceedings in an action commenced under the Stannaries jurisdiction shall be regulated by the statutory provisions and rules for the time being in force regulating the proceedings in actions in the county courts.

Procedure of High Court (except under Order XIV.) to apply where no other provision made.

26. Where no other provision is made by the statutory provisions or rules for the time being in force, the practice and procedure in force in the High Court shall apply to proceedings commenced in a county court under the Stannaries jurisdiction. Provided that the procedure under Order XIV. of the Rules of the Supreme Court shall not be resorted to in the county court.

Provisions as to proceedings commenced under ordinary jurisdiction which should have been commenced under Stannaries jurisdiction, and vice versa.

27. If in the course of any action or matter which has been commenced as being within the limits of the ordinary jurisdiction of the county courts it appears that the subject matter of such action is beyond such limits, but within the limits of the Stannaries jurisdiction, the proceedings shall not be invalidated, but the action shall thenceforth proceed in all respects, as to costs and otherwise, as if it had been commenced under the Stannaries jurisdiction : And in like manner, if in the course of any action which has been commenced under the Stannaries jurisdiction it appears that the subject matter of such action is within the limits of the ordinary jurisdiction of the county courts, the proceedings shall not be invalidated, but such action shall thenceforth proceed in all respects, as to costs and otherwise, as if it had been commenced as being within the limits of the ordinary jurisdiction of the court.

28. The costs of actions commenced under the Stannaries jurisdiction shall be allowed and taxed according to the rules and scales of costs for the time being in force in the county courts, and applicable to the subject matter of such actions.

ORDER  
LI.  
—  
Costs of  
actions  
under  
Stannaries  
jurisdiction.

Provided as follows :—

- (1.) Such actions shall be within Order LIII., Rule 8.
- (2.) Where costs are taxed under Column C, the fees allowable under items 70 to 73 may be increased, at the discretion of the registrar, subject to review by the judge, or by special order of the judge under Order LIII., Rule 8, to any sums not exceeding the following ; that is to say,

	£	s.	d.
Item 70 may be increased to ...	...	5	5 0
Items 71 to 73 „ „ ...	...	3	3 0

- (3.) Where costs are taxed under Column C, reasonable fees may be allowed to counsel in excess of those mentioned in items 85 to 94, in respect of the matters referred to in such items, at the discretion of the registrar, subject to review by the judge, or by special order of the judge under Order LIII., Rule 8.
- (4.) Where proceedings are taken for which no provision is made by the rules or scales of costs, reasonable costs may be allowed in respect of such proceedings by the registrar, subject to review by the judge, or by special order of the judge, not exceeding those which may under the scales or these rules be allowed in respect of proceedings of a like nature.

### ORDER LII.

[Order LB., April, 1895.]

ORDER  
LII.

FINES. NEGLECT OR MISCONDUCT OF OFFICERS. COMMITTAL FOR CONTEMPT. ENFORCEMENT OF FINES. THE COUNTY COURTS ACT, 1888, SECTIONS 48, 49, 50, 102, 112, 162 AND 167. THE SUMMARY JURISDICTION ACTS.

1. On complaint made to the court that any person has assaulted an officer or bailiff of the court while in the execution of his duty, or has rescued or attempted to rescue any goods levied under process

Issue and  
service of  
summons  
on  
complaint

**ORDER  
LII.**  
—  
of assault  
or rescue  
under 51 &  
52 Vict.  
c. 43. s. 48.  
Form 355.

of the court, the registrar shall issue a summons under section forty-eight of the Act, according to the form in the Appendix, directed to the alleged offender (hereinafter called the defendant), and such summons shall be served personally on the defendant two clear days before the return day. ["Two days" substituted for "one day."]

**Witnesses  
and costs.**

2. On the hearing of a summons issued under the last preceding rule, or on the summary hearing by the judge of a complaint against any person taken into custody and brought before him under section forty-eight of the Act, witnesses may be summoned and their attendance enforced in like manner as on the hearing of an action, and the judge may award costs to the complainant, or to the defendant if the complaint is dismissed, in like manner as to a plaintiff or defendant on the trial of an action. Costs so awarded shall be taxed on such scale as the judge shall order, and in default of any order they shall be taxed on the lower scale.

**Order.**  
Form 356.  
**Enforce-  
ment of  
order. 51 &  
52 Vict.  
c. 43. s. 167.**  
**Forms  
357-360.**  
**11 & 12  
Vict. c. 43.  
42 & 43  
Vict. c. 49.**  
**Appendix,  
Part III.**

3. An order imposing a fine for an offence under section forty-eight of the Act shall be according to the form in the Appendix; and payment of such fine and costs may be enforced, upon the order of the judge, pursuant to section one hundred and sixty-seven of the Act, and according to the forms in the Appendix, by distress and sale of the goods of the defendant under warrant of execution, or, in default or (as the case may be) in lieu of distress, by imprisonment of the defendant for any period not exceeding the period which under the Summary Jurisdiction Acts may be imposed in respect of the default of sufficient distress to satisfy a similar sum adjudged to be paid on summary conviction, regard being had to the provisions of the Summary Jurisdiction Acts set out in Part III. of the Appendix.

**Summons  
for neglect,  
&c., under  
s. 49, or  
extortion,  
&c., under  
s. 50.**

4. A summons against a bailiff under section forty-nine of the Act for neglect, connivance, or omission, or a summons against a bailiff or other officer of the court under section fifty of the Act for extortion or misconduct or any other offence, shall, on complaint made by the party aggrieved, be issued according to such of the



forms in the Appendix as shall be applicable, and such summons shall be served personally on the party to be charged ten clear days before the return day.

ORDER  
LII.

Forms  
361, 363.

5. An order under section forty-nine or section fifty of the Act shall be according to such of the forms in the Appendix as shall be applicable, and in default of compliance with any such order execution or other process may issue thereon in like manner as on a judgment in an action. The costs awarded by any such order shall be taxed on such scale as the judge shall order, and in default of any order they shall be taxed on the scale which would be applicable to the amount ordered to be paid, or, if costs are awarded to the defendant, the amount claimed, if such amount were recovered or claimed in an action.

Order.

Forms  
362, 364.

6. When under section one hundred and two of the Act a fine for non-attendance is imposed on any person summoned as a juror, payment of such fine shall not be enforced for fourteen days; and the registrar shall forthwith, by letter, inform such person that such fine has been imposed, but that payment thereof will not be enforced for fourteen days, and that if he has any cause to show for his non-attendance he may, within seven days after the date of such letter, forward to the registrar an affidavit showing such cause, or may attend in person and show such cause on any day within such fourteen days on which the court shall sit. On the receipt of any such affidavit the registrar shall submit the same to the judge, who, on considering the cause shown by such affidavit, or on hearing the juror if he attends in person, shall have power to remit such fine.

Fine on  
juror under  
s. 102. may  
be remitted  
on cause  
shown.

7. An order under section one hundred and eleven of the Act, imposing a fine for non-attendance on a person summoned as a witness, or a fine on a person present in court who refuses to be sworn or give evidence, shall be according to the form in the Appendix; and payment of such fine may be enforced, upon the order of the judge, pursuant to section one hundred and sixty-seven of the Act, and according to the forms in the Appendix, by distress and sale of the goods of the witness under warrant of execution, or, in default or (as the case may be) in lieu of distress, by imprisonment

Order  
under  
s. 111,  
imposing  
fine on  
witness.  
Form 126.  
Enforce-  
ment of  
order.  
51 & 52 Vict.  
c. 43. s. 167.  
Forms  
127-129.

ORDER  
LII.

11 & 12  
Vict. c. 43.  
42 & 43 Vict.  
c. 49.  
Appendix,  
Part III.

Committal or  
fine for con-  
tempt of  
court.  
51 & 52 Vict.  
c. 43. s. 162.  
Forms 365-  
367.

Report by  
registrar to  
judge if  
fine not  
paid.

Proceedings  
in default of  
payment of  
fine ordered  
to be paid by  
instalments.

of such witness for any period not exceeding the period which under the Summary Jurisdiction Acts may be imposed in respect of the default of sufficient distress to satisfy a similar sum adjudged to be paid on summary conviction, regard being had to the provisions of the Summary Jurisdiction Acts set out in Part III. of the Appendix.

8. An order committing a person to prison or imposing a fine for any offence mentioned in section one hundred and sixty-two of the Act shall be according to the form in the Appendix, and such order may be enforced by proceedings according to the forms in the Appendix.

9. Where a fine is not paid in accordance with the order imposing such fine, the registrar shall forthwith report the matter to the judge, and shall act on any orders given by the judge for the enforcement of such fine. If the judge orders such fine to be enforced by warrant of execution, the time when such order is received by the registrar shall be deemed to be and shall be entered as the time when application was made to the registrar to issue such warrant. [Rule 11, June, 1896.]

10. Where by an order imposing a fine a sum is directed to be paid by instalments, and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments remaining unpaid. [Rule 12, June, 1896.]

ORDER  
LIII.

Taxation  
of costs.  
Scales of  
costs.  
Appendix,  
Part IV.

Costs, when  
to be taxed.  
Delivery  
of bill.

ORDER LIII.

COSTS AND ALLOWANCES TO WITNESSES.

*Taxation.*

1. In every action or matter in any court all costs shall be taxed by the registrar of such court according to the scales of costs in Part IV of the Appendix, subject to the review of such taxation by the judge. [Order LA., Rule 1, Feb., 1892.]

2. Where practicable the costs of an action or matter shall be taxed on the day on which the action or matter is tried or heard; and where the costs have not been so taxed, one day's notice of taxing,

together with a copy of the bill of costs if the registrar so directs, shall be given by the solicitor of the party whose costs are to be taxed to the other party or his solicitor. [Rule 2.]

ORDER  
LIII.

3. Notice of taxation may be sent by post prepaid, provided that it is posted in time to reach the party to whom it is addressed in due course of post before noon of the day preceding the day fixed for taxation. [Rule 3.]

Notice of  
taxation.

4. In every bill of costs to be taxed under Column B or C the professional charges shall be entered in a separate column from the disbursements, and every column shall be cast before the bill is left for taxation.

Forms of  
bills of  
costs.

[New ; R.S.C. Order LXV., Rule 19h.]

5. Any party who may be dissatisfied with the allowance or disallowance by the registrar on taxation in any bill of costs taxed by him of the whole or any part of any items, may, at any time before the certificate or allocatur is signed, deliver to the other party interested therein, and carry in before the registrar on taxation, an objection in writing to such allowance or disallowance, specifying therein by a list, in a short and concise form, the items, or parts thereof, objected to, and the grounds and reasons for such objection, and may thereupon apply to the registrar to review the taxation in respect of the same. [Rule 4.]

Party dis-  
satisfied to  
make ob-  
jections in  
writing.

6. Upon such application the registrar shall reconsider and review his taxation upon such objection, and he may, if he thinks fit, receive further evidence in respect thereof, and, if so required by either party, he shall state either in his certificate of taxation or allocatur, or by reference to such objection, the grounds and reasons of his decision thereon, and any special facts or circumstances relating thereto. [Rule 5.]

Review of  
taxation  
upon  
objections.

#### *Allowance of Costs by Judge.*

7. The order of the judge required for the allowance of any of the following items in the scales, viz., items 3, 31, 70, 86, 91, 92, 93, 94, and 95, or for the allowance of any particular costs under any of the County Court Rules, shall be a special order made

How order  
for partic-  
ular costs  
to be made  
and ob-  
tained.

ORDER  
LIII.

51 & 52  
Vict. c. 43  
s. 119.

upon consideration of the facts of the particular case, and not a general order; and the application for such allowance, or for any certificate under section one hundred and nineteen of the Act, shall be made at or immediately after the trial or hearing; and if not so made shall not afterwards be entertained, unless the judge for good cause otherwise orders. [Rule 6, altered.]

Allowance  
of special  
items in  
certain  
cases.

8. The judge may, in his discretion, in any action under section sixty-four of the Act, or under the Employers Liability Act, any action or matter remitted from the High Court, any action or matter commenced under the Admiralty or equitable jurisdiction of the court, or any action of ejectment or in which title to any corporeal or incorporeal hereditaments comes in question, order that any of the following items mentioned in the scale of costs shall be allowed to the party in whose favour the order is made, in addition to or in substitution for, as the case may be, the costs to which he would otherwise be entitled, viz., items 31, 70, 86, and 93. [Rule 7.]

Judge's  
certificate  
for costs.  
51 & 52  
Vict. c. 43.  
s. 119.

9. Where the judge certifies under section one hundred and nineteen of the Act, the certificate shall be entered at the end of the minutes of the court of the day on which it is given, and shall be signed by the judge. [Rule 8.]

Solicitor's  
costs where  
counsel  
allowed  
before  
arbitrator, &c.  
Item 92.

10. Where the judge certifies for counsel under item 92, there may be allowed to the solicitor instructing such counsel, in addition to items 80 and 81, such items as may be allowed where the judge certifies for counsel on any interlocutory motion or application. [Rule 6*b*, June, 1896.]

*As to Scale.*

In special  
actions.  
51 & 52  
Vict. c. 43  
ss. 59-61,  
133.

11. In actions in which a perpetual injunction is claimed, whether the same is granted or not, and in actions under sections fifty-nine, sixty, sixty-one, and one hundred and thirty-three of the Act, the judge may order the costs to be taxed under Column A., B., or C., and in default of any such order they shall be taxed under Column B. [Rule 9.]

12. In proceedings under sections sixty-seven and seventy of the Act, or under the Settled Land Acts, 1882 to 1890, or in any other proceedings under the equitable jurisdiction of the court, where the subject matter does not exceed twenty pounds, the judge may order the costs to be taxed under Column B.] [Substituted for Rule 9a, April, 1895.]

ORDER  
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Costs in equitable proceedings where subject matter does not exceed 20*l*.

13. The costs in actions under sections one hundred and thirty-eight and one hundred and thirty-nine of the Act shall be taxed, in the case of a plaintiff, on the scale applicable to the rent or value of the premises upon which the court fees are assessed, plus the amount of any rent and mesne profits recovered; and in the case of a defendant on that applicable to the said rent or value, plus the amount of the rent and mesne profits claimed. [Rule 10.]

Actions for recovery of possession.  
51 & 52  
Vict. c. 43.  
ss. 138, 139.

14. Costs in actions under section sixty-four of the Act shall be taxed under Column C., unless the judge otherwise orders. [Rule 11.]

Jurisdiction by consent.  
51 & 52 Vict.  
c. 43. s. 64.

15. The "subject matter" in an interpleader proceeding shall mean (1) in the case of a claimant the amount of the value of the goods his claim to which is allowed, plus the amount of the damages (if any) adjudged, (2) in the case of an execution creditor the amount of the value of the goods seized, plus the amount of the damages (if any) claimed, and (3) in the case of a high bailiff, the amount of the damages claimed. [Rule 12.]

Interpleader proceedings.

16. Where a counter-claim is raised and tried, unless the judge otherwise orders, the scale upon which the costs of the parties are to be taxed shall be determined as follows:—

Costs where counter-claim raised and tried.

(1.) If the plaintiff is successful on both claim and counter-claim, by the amount which he recovers on his claim, unless the amount of the defendant's claim is the larger, in which case the costs incurred subsequently to the delivery of the counter-claim shall be determined by the amount of such counter-claim.

[Rule 13.]

(2.) If the defendant is successful on both claim and counter-claim, by the amount which he recovers on his counter-claim, or the amount of the plaintiff's claim, whichever may be the larger.

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(3.) If both parties are successful, by the amounts which they recover on their respective claims ; and if both claims fail, by the amount claimed by the opposite party.

Where  
plaintiff  
recovers  
less than  
claim.

17. Where the demand is unliquidated, and the plaintiff recovers less than the amount claimed, the judge may order that his costs be taxed on the scale applicable to the amount claimed, or any intermediate scale. [Rule 14.]

Defend-  
ant's costs.

18. Where the costs of a defendant are being taxed, the word "recovered," wherever it occurs in the scale, shall be deemed to be "claimed." [Rule 15.]

Fees where  
party  
recovers  
less than  
he claims.

19. Where the plaintiff or defendant recovers less than the amount of his claim or counter-claim, so as to reduce the amount of court fees recoverable by him, he shall pay the difference. [Rule 16, revised.]

*General Directions.*

No costs  
allowed if  
not sanc-  
tioned by  
scales.

20. Costs not sanctioned by the scale are not to be allowed, except in cases expressly provided for by these rules, and costs are not to be allowed as between the parties to an action in respect of searching for payments into court nor in respect of any proceedings to enforce payment of a judgment or order by way of execution against the goods or commitment under the Debtors Act, 1869, save as provided in Order XXV., Rules 53 and 54. [Rule 17.]

Discretion  
of regis-  
trars.

21. When under the scales or rules a discretion as to the allowances to be made is vested in registrars, they are required to exercise such discretion with care and discrimination, and strictly in accordance with the particular directions set forth in the scales and rules. [Rule 18.]

When costs  
unneces-  
sarily in-  
curred.

22. No costs which are to be paid or borne by another party shall be allowed which do not appear to the registrar on taxation to have been necessary or proper for the attainment of justice or for defending the rights of the party incurring the same, or which appear to such registrar to have been incurred through over caution, negligence, or mistake, or merely at the desire of such party. [Rule 19.]

In particular, where a party employs a solicitor who does not reside or carry on business in or near the district of the court, no costs for locomotion or maintenance of such solicitor shall be allowed unless the court is satisfied that there was reasonable cause for employing such solicitor. [New.]

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Where  
solicitor  
from a  
distance  
employed.

23. All fees or allowances which are discretionary shall, unless otherwise provided, be allowed at the discretion of the registrar on taxation, who, in the exercise of such discretion, shall take into consideration the other fees and allowances to the solicitor and counsel, if any, in respect of the work to which any such allowance applies, the nature and importance of the action or matter, the amount involved, the interest of the parties, the fund or persons to bear the costs, the general conduct and costs of the proceedings, and all other circumstances. [Rule 20.]

Discre-  
tionary  
fees and  
allow-  
ances.

24. Where two or more defendants are joined and judgment is given separately against each with costs, the costs shall, unless the judge otherwise orders, be apportioned according to the respective amounts of each judgment. [Rule 21.]

Where  
separate  
judgments  
against  
defend-  
ants.

25. Where a solicitor who is a plaintiff or defendant appears in person and is allowed costs he shall be entitled on taxation to the same costs as if he had employed a solicitor, except in respect of items which the fact of his acting directly renders unnecessary. [New; see *London Scottish Benefit Society v. Chorley*. 12 Q.B.D. 452; 13 ib. 872.]

Costs of  
solicitor  
appearing  
in person  
as plaintiff  
or defend-  
ant.

26. Where a party appearing by counsel is allowed costs, but the costs of employing counsel are not allowed, the costs of the solicitor instructing counsel may be allowed on the scale which would have been applicable if the solicitor had appeared for his client without counsel. [New.]

Costs of  
solicitor  
where  
counsel  
employed  
but not  
allowed.

27. A folio shall comprise seventy-two words, every figure comprised in a column or authorised to be used counting as one word.

Folio.  
[Rule 22.]

28. When any real property is directed to be sold, the ordinary conveyancing charges shall be allowed. [Rule 23.]

Sale of real  
property.

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Costs of  
person in  
fiduciary,  
&c.  
position.

29. Where in the course of an action or matter a party suing or sued in a fiduciary or representative character necessarily incurs costs not allowable upon taxation under any scale, the registrar shall apply to the judge, who may, by an order to be filed with the proceedings, allow such a sum as he may think fit for such costs to be paid out of any funds in court applicable to the purpose. [Rule 24.]

Costs out  
of estate.

30. The costs occasioned by any unsuccessful claim or unsuccessful resistance to any claim to any property shall not be paid out of the estate unless the judge otherwise directs.

[New ; R.S.C. Order LXV., Rule 14a.]

Costs as  
regards  
particular  
shares.

31. The costs of inquiries to ascertain the persons entitled to any legacy, money, or share, or otherwise incurred in relation thereto, shall be paid out of such legacy, money, or share, unless the judge otherwise directs.

[New ; R.S.C. Order LXV., Rule 14b.]

Distribu-  
tion not to  
be delayed  
by difficul-  
ties as to  
some  
shares.

32. Where some of the persons entitled to a distributive share of a fund are ascertained, and difficulty or delay has occurred or is likely to occur in ascertaining the persons entitled to the other shares, the judge may order or allow immediate payment of their shares to the persons ascertained without reserving any part of those shares to answer the subsequent costs of ascertaining the persons entitled to the other shares ; and in all such cases such order may be made for ascertaining and payment of the costs incurred down to and including such payment as the judge may think reasonable.

[New ; R.S.C. Order LXV., Rule 14c.]

Disallow-  
ance of  
costs of  
improper,  
vexatious,  
or unneces-  
sary matter  
in docu-  
ments or  
proceed-  
ings.

33. The judge may, at the hearing of any action or matter, or upon any application or proceeding in any action or matter, and whether the same is objected to or not, direct the costs of any affidavit, evidence, notice, or other proceeding, or any part thereof, which is improper, vexatious, unnecessary, or contains vexatious or unnecessary matter, or is of unnecessary length, or is caused by misconduct or negligence, to be disallowed, or may direct the registrar to look into the same and to disallow the costs thereof, or of such part thereof as



he shall find to be improper, unnecessary, or vexatious, or to contain unnecessary matter, or to be of unnecessary length, or to have been caused by misconduct or negligence; and in such case the party whose costs are so disallowed shall pay the costs occasioned thereby to the other parties; and in any case where such question has not been raised before and dealt with by the judge, it shall be the duty of the registrar to look into the same for the purpose aforesaid, and thereupon the same consequences shall ensue as if he had been specially directed to do so.

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[New; R.S.C. Order LXV., Rule 27 (20).]

34. In any case in which, under the last preceding rule, or any other rule, or by the order or direction of the judge, or otherwise, a party entitled to receive costs is liable to pay costs to any other party, the registrar may tax the costs such party is so liable to pay, and may adjust the same by way of deduction or set-off, or may, if he thinks fit, delay the allowance of the costs such party is entitled to receive until he has paid or tendered the costs he is liable to pay; or such registrar may allow or certify the costs to be paid, and direct payment thereof, and the same may be recovered by the party entitled thereto in the same manner as costs ordered to be paid may be recovered.

Set-off of  
costs.

[New; R.S.C. Order LXV., Rule 27 (21).]

35. If on the taxation of a bill of costs payable out of a fund or estate (real or personal) the amount of the professional charges contained in the bill is reduced by a sixth part, no costs shall be allowed to the solicitor leaving the bill for taxation for drawing and copying it, nor for attending the taxation.

Disallow-  
ances  
where bill  
reduced by  
a sixth.

[New; R.S.C. Order LXV., Rule 38b.]

36. Where in any action or matter any bill of costs is directed to be taxed for the purpose of being paid or raised out of any fund or property, the court may, if it considers that there is a reasonable ground for so doing, require the solicitor to deliver or send to his clients, or any of them, free of charge, a copy of such bill or any part thereof, previously to the registrar completing the taxation thereof, accompanied by any statement the court may direct, and by a

Delivery of  
bill to  
client  
where  
costs to be  
paid out of  
a fund.

ORDER  
LIII.  
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letter informing such client that the bill of costs has been referred to the registrar for taxation, and will be proceeded with at the time the registrar has appointed for this purpose, and the court may suspend the taxation for such time as it may consider reasonable.

[New ; R.S.C. Order LXV., Rule 56.]

*Witnesses.*

Allowances  
to witnesses  
for attend-  
ance. Appen-  
dix, Part IV.

37. Subject to the following rules, allowances may be made to witnesses for their attendance at court according to the scales in Part IV of the Appendix. [Rule 25.]

Plaintiff  
not entitled  
except in  
certain  
cases.

38. Where a witness is a plaintiff in the action or matter he shall not be entitled to any allowance, except for travelling, unless he is a domestic or menial servant, a labourer, a servant in husbandry, a journeyman, an artificer, a handicraftsman, a miner, or any person engaged in manual labour, or unless the judge in any particular case otherwise orders. [Rule 26.]

Travelling  
expenses.

39. There may be also allowed to all witnesses, and to plaintiffs and defendants if personally attending the court, for travelling expenses, the sums actually and reasonably paid by them. [Rule 27.]

When at-  
tending in  
more than  
one case.

40. If witnesses attend in more than one action or matter they shall be allowed a proportionate part only of their allowances in each action or matter. [Rule 28.]

Costs of  
witnesses  
not sum-  
moned.

41. The costs of witnesses, whether they have been examined or not, may, unless otherwise ordered, be allowed, though they have not been summoned. [Rule 29.]

Compensa-  
tion to  
seamen.

42. Seamen necessarily detained on shore for the purpose of an action or matter shall be allowed such remuneration as the judge may order, or, in the absence of an order, as the registrar may think reasonable compensation for their loss of time. [Rule 30.]

43. In any action or matter in which a party is entitled of right, or by order of the judge, to tax his costs under Columns B. or C., the judge may order that any expert or scientific witnesses may be allowed for qualifying to give evidence and for attending the trial such sums (in addition to travelling expenses to attend the trial) as the registrar on taxation may think fit, not exceeding the maximum allowances mentioned in the scale of allowances to "expert and scientific witnesses" in the Appendix; and in like cases the judge, subject to the provisions of the next rule, may order that the expense of preparing and proving plans, drawings, models, &c., shall be allowed. [Rule 31.]

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L.III.

Allowances  
to expert  
or scientific  
witnesses.

44. Persons who prepare plans, drawings, models, &c. for the purpose of illustration, and who if called at the trial prove the correctness of such plans, drawings, models, &c. only, shall not be entitled to allowances as expert and scientific witnesses, but shall be allowed for their attendance upon the scale applicable to ordinary witnesses; and there may be also allowed for the preparation of such plans, drawings, models, &c. and of all tracings and copies thereof, the sum reasonably paid for the same, so long as it does not exceed the sums mentioned in item 95 of the scale of costs. [Rule 32.]

Allowances  
for proof  
and costs  
of plans, &c.

*The Rivers Pollution Prevention Acts, 1876 and 1893.*

45. (1.) Proceedings under the Rivers Pollution Prevention Acts, 1876 and 1893, shall be within Rule 8 of this Order.

Costs  
under  
Rivers Pol-  
lution Pre-  
vention  
Acts.  
39 & 40  
Vict. c. 75.  
56 & 57  
Vict. c. 31.

(2.) If the judge certifies in writing that any such proceedings involved some novel or difficult point of law, or that the question litigated was of importance to some class or body of persons, or was of general or public interest, and the costs are taxed under Column C, the following provisions shall apply :—

(a.) The fees allowable under items 70 to 73 may be increased, at the discretion of the registrar, subject to review by the judge, or by special order of the judge under Rule 8 of this Order, to any sums not exceeding the following, that is to say :—

Item 70 may be increased to ... £5 5s.

Items 71 to 73 may be increased to ... £3 3s.

ORDER  
I.III.

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(b.) Reasonable fees may be allowed to counsel in excess of those mentioned in items 85 to 94 in respect of the matters referred to in such items ; and where more counsel than one are retained, reasonable fees may be allowed to such additional counsel, and for consultations, and to solicitors for additional briefs and attendances on counsel with the same, and for appointing and attending consultations ; and reasonable fees may also be allowed for plans, charts, or models in excess of those mentioned in item 95 ; and also reasonable additional allowances to expert and scientific witnesses for qualifying to give evidence and attending the court on the trial, at the discretion, in each case mentioned in this paragraph, of the registrar, subject to review by the judge, or by special order of the judge under Rule 8 of this Order.

(3.) Where proceedings are taken under the said Acts for which no provision is made by the scales of costs, reasonable costs may be allowed in respect of such proceedings by the registrar, subject to review by the judge, not exceeding those which may under the scales or this rule be allowed in respect of proceedings of a like nature. [Rule 33, May, 1899.]

*Taxation as between Solicitor and Client.*

Taxation as  
between  
solicitor  
and client.  
51 & 52  
Vict. c. 43.  
s. 118.  
[New.]

46. (1.) An application to the registrar under section one hundred and eighteen of the Act for the taxation of any costs and charges as between solicitor and client shall be made in writing, and shall state on whose behalf the application is made.

(2.) On receipt of such application the registrar shall fix a time and place for proceeding with such taxation, and shall give or send by post to the applicant and the other party notice in writing of the time and place so fixed three clear days at least before the day so fixed.

(3.) Rules 5 and 6 of this Order shall apply to any such taxation.

6 & 7 Vict.  
c. 73, s. 37.

(4.) The costs of such taxation shall be dealt with by the registrar in accordance with the provisions of the Solicitors Act, 1843, and shall be added to or deducted from the amount certified to be due. [New.]

*Review of Taxation by Judge.*ORDER  
LIII.

47. An application to the judge to review any taxation of costs shall be made on notice in writing in accordance with the rules for the time being in force as to interlocutory applications. Such application shall be heard and determined upon the evidence which has been brought in before the registrar, and no further evidence shall be received on the hearing thereof unless the judge otherwise directs.

Application for review of taxation by judge.

[New ; R.S.C. Order LXV., Rules 41, 42.]

## ORDER LIV.

ORDER  
LIV.

## GENERAL PROVISIONS.

1. Where by these rules any act may be done by any party, such act may be done either in person or by his solicitor, or by an agent, where it can be legally done by an agent. [Order LI., Rule 1.]

Party may act by solicitor or agent.

2. Any notice, proceeding, or document required by these rules to be served on any party, and as to which no mode of service is prescribed by these rules, may be so served by delivering the same to the person on whom it is to be served, or by delivering the same at the residence or place of business of such person, or by sending the same by post addressed to such person at his last-known residence or place of business ; and any such notice, proceeding, or document, if served by post, shall, unless the contrary be proved, be deemed to have been served at the time when the letter containing the same would have been delivered in the ordinary course of post, and in proving the service of such notice, proceeding, or document, it shall be sufficient to prove that the same was properly addressed and posted : Provided that for the purposes of this rule a place of business shall not be deemed to be the place of business of the person to be served unless he is the master or one of the masters thereof. [New.]

Service of notices, &c., where no mode of service prescribed. [New.]

3. Where a party acts by a solicitor, any document, notice, or proceeding required to be served by or upon such party may be served by or upon such solicitor, except in cases where by these rules personal service upon a party is required ; and service of any such document,

Service by or upon solicitor acting for party.

ORDER  
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notice, or proceeding upon such solicitor, or delivery of the same at his office, or sending the same to him by post prepaid, shall be deemed to be good service upon the party for whom such solicitor acts, as upon the day when the same is so served or delivered, or upon which in the ordinary course of post it would be delivered. Provided that the provisions of this rule shall not extend to any default or judgment summons, nor except as provided by Order VII., Rule 12, to any ordinary summons. [Rule 2a, Feb., 1892.]

Solicitor  
may give  
notice that  
he is  
acting.

4. A solicitor acting for a party in any action or matter may give notice in writing by post or otherwise to the registrar and to the other party, or his solicitor, that he is so acting, whereupon service of any document, notice, or proceeding whatsoever authorised by these rules to be served by or upon a solicitor so acting shall be served by or upon such solicitor accordingly, and he shall be deemed to be the solicitor acting for the party on whose behalf he has given such notice, until notice of change of solicitor has been duly given. Provided that where the plaint is entered by a solicitor acting for the plaintiff, and the particulars have been duly signed by him or on his behalf as provided by Order VI., Rule 9, or where a notice of defence, set off, or counterclaim is signed by or on behalf of a solicitor acting for a defendant, no further notice need be given under this rule. [Rule 3.]

Service by  
or on such  
solicitor.

Practice on  
service by  
solicitor.

5. Where a solicitor undertakes the service of any process, he shall make the necessary copies of each process, and the registrar shall seal the same and return them to the solicitor for service. [Rule 4.]

Change of  
solicitor.  
51 & 52  
Vict. c. 43.  
s. 72.  
Notice.

Form 352.

6. Subject to the provisions of section seventy-two of the Act prohibiting the retainer of a solicitor as an advocate by the solicitor acting generally in an action or matter for any party, any party who acts by solicitor may change his solicitor without any order for that purpose, but when any such change is made he shall give forty-eight hours notice in writing to the registrar and to the other parties to the action or proceedings or the solicitors, if any, acting for them, of such change, and of the name or firm and place of business of the new solicitor, and the registrar shall file the notice given to him ; but

until such notice is filed and a copy thereof served the former solicitor shall be deemed to be the solicitor of the party. [Rule 5.]

ORDER  
LIV.

7. No solicitor shall be allowed to appear for any person in a court until he has signed a roll or book to be kept for that purpose by the registrar, but no fees shall be payable for that purpose ; and any solicitor appearing in any court shall, once in every year, if required by the registrar, produce his certificate for the year to the registrar, who shall note the fact of such production on the roll or book. [Rule 7.]

Solicitors  
to sign a  
roll.

8. It shall not be necessary for any party to give notice to any other or to the court of his intention to employ a barrister or solicitor to act as his advocate at the trial, and the allowance of costs for such barrister or solicitor shall not be affected by such want of notice. [Rule 8.]

No notice  
of employ-  
ment of  
counsel or  
solicitor  
required.

9. The court shall order in what newspapers any advertisements which may from time to time be ordered in any action or matter shall be inserted ; and the expense of such advertisements shall be paid to the registrar by the party requiring the same before they are inserted. [Rule 9.]

News-  
paper  
advertise-  
ments.

10. All advertisements to be inserted in the London Gazette, except as to proceedings under Order XXXIX. or Order XLI., Rule 12, shall be transmitted by the registrar for insertion to the Registrar of County Courts Judgments in London. [Rule 10a, Feb., 1892.]

Advertise-  
ments for  
London  
Gazette.

11. The judge, or in his absence the registrar, may order which party shall have the conduct of proceedings in any action or matter. [Rule 11.]

Conduct of  
action.

12. Parties may by consent enlarge or abridge any of the times fixed by these rules or by statute for taking any step or filing any document, or giving any notice, in any action or matter. Where such consent cannot be obtained, either party may apply to the court, on notice to the non-consenting party, for an order to effect the object sought to have been obtained with the consent of the

Enlarge-  
ment or  
abridg-  
ment of  
time.

**ORDER  
LIV.**  

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other party, and such order may be made although the application for the order is not made until after the expiration of the time allowed or appointed, and on such terms, as to costs and otherwise, as the court may direct. [Rule 12, revised.]

**Filing of  
docu-  
ments and  
copies for  
service.**

13. Where particulars or documents are directed to be filed, they shall be filed with the registrar, together with as many copies thereof as there are parties to be served, and the names, addresses, and descriptions of such parties, and if required an additional copy for the use of the judge. [Rule 15.]

**Sealing of  
docu-  
ments.**

14. Before any summons, notice, or other document, or any copy thereof, is issued by the registrar, the same shall be sealed with the seal of the court. [Rule 16.]

**Notices  
to be in  
writing.**

15. All notices required by these rules shall be in writing, unless expressly authorised by the court to be given orally.

[New ; R.S.C. Order LXVI., Rule 1.]

**Form of  
notices.**

16. Where by these rules any party is required to give notice according to a form mentioned in the Appendix, it shall be sufficient if the notice given complies substantially with such form. [Rule 17.]

**Computa-  
tion of  
periods not  
exceeding  
48 hours.**

17. Where anything is required by these rules to be done within a period not exceeding forty-eight hours, no part of any Sunday or day on which the offices of the court need not be open under these rules or under any order of the Lord Chancellor shall be included in the computation of such period. [Rule 18.]

**When time  
for doing  
any act  
expires on  
day when  
offices are  
closed.**

18. Where the time for doing any act or taking any proceeding expires on a Sunday or other day on which the offices of the court are closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which the offices shall next be open. [Rule 19.]



19. No summons, warrant, or other process (except a summons *in rem* or a warrant of arrest in an Admiralty action) shall be served or executed on Sunday, Christmas day, Good Friday, or on any day appointed by royal proclamation for a public fast, humiliation, or thanksgiving; nor need any summons, warrant, or other process be served or granted on any day on which the offices of the courts need not be open under these rules or under any order of the Lord the Chancellor; but such days shall be counted in the computation of time required by these rules in respect of service. [Rule 20, revised.]

ORDER  
LIV.

When process may not be served, and need not be issued.

Computation of time for service.

20. All letters, notices, documents, or process sent by post by or to the officers of the courts, or by or to parties in any action or matter, shall be prepaid, and shall not be sent by book post. [Rule 21.]

Transmission of notices, &c., by post.

21. All notices which may be sent by post to the office of a registrar shall be taken to have been duly delivered on the day on which they should have been delivered, if they are delivered at the office of the registrar before the opening thereof on the following day. [Rule 22.]

Notices by post delivered after office hours.

22. All proceedings and documents shall be in forms similar to the forms in the Appendix, where the same are applicable; and in cases where such forms are not applicable, or where no forms are provided, parties shall frame the proceedings or documents, using as guides the forms contained in the Appendix. [Rule 24.]

Use of forms in Appendix. Where no forms prescribed.

23. No practice shall prevail in any court which shall be inconsistent with these rules, nor shall any matter be added to or taken from any form in the Appendix, whereby any obligation shall be imposed upon any suitor or any officer of the court to which he is not liable under statute or these rules, or otherwise by law. [Rule 27, altered.]

Rules and forms to be adhered to.

24. Non-compliance with any of these rules, or with any rule of practice for the time being in force, shall not render any proceedings void unless the court shall so direct, but such proceedings may be set aside either wholly or in part as irregular, or may be amended or

Non-compliance with rules not to render proceedings void.

ORDER  
LIV.  
—

otherwise dealt with in such manner and upon such terms as the court may think fit. [Rule 28.]

Applica-  
tion to set  
aside pro-  
ceedings  
for irregu-  
larity.

25. Applications to set aside proceedings for irregularity may be made to the court on notice in manner prescribed by Order XII., Rule 11. No application to set aside any proceeding for irregularity shall be allowed unless made within a reasonable time, nor if the party applying has taken any fresh step after knowledge of the irregularity. Where any such application is made, the several objections intended to be insisted upon shall be stated in the notice.

[Rule 29, altered : *see* R.S.C. Order LXX., Rule 3.]

Duplicate  
of warrant,  
&c., lost or  
destroyed.

26. In the event of any warrant, order, or other document issued by the court being lost or destroyed, a duplicate thereof may be issued from time to time upon proof, by affidavit or otherwise, to the satisfaction of the registrar, of such loss or destruction. [Rule 24*a*, May, 1899.]

ORDER LV.  
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ORDER LV.

INTERPRETATION OF TERMS.

Interpre-  
tation.

[Order  
LII].

In the construction of these rules, words importing the singular number include the plural, and words importing the plural number include the singular, and words importing the masculine gender include females, and, unless there is anything in the subject or context repugnant thereto, words have the same meaning as in the Act, and the several words hereinafter mentioned or referred to have or include the meanings following :—

“The Act” means the County Courts Act, 1888 :

“Clear days” means that in all cases in which any particular number of days is prescribed for the doing of any act, or for any other purpose, the same is to be reckoned exclusive both of the first and of the last day ;

“Court” includes a judge or registrar exercising the powers of the court in chambers as well as in open court ;

- “Default summons” means a summons which is issued on the entry of a plaint, and is required by statute or rule to be served personally ; [Feb. 1892.] ORDERLY
- “Foreign court” means the court of a district into which process is issued from another court ;
- “High bailiff” means, if there be more than one high bailiff to a court, either of such high bailiffs ;
- “Home court” means the court from which process is originally issued ;
- “Home district” means the district of the home court : and  
“foreign district” means the district of the foreign court ;
- “Judgment” means the final decision of the court in any action ;
- “Metropolitan court” means any court referred to in section eighty-four of the Act, and includes also the Bow County Court of Middlesex ; [New.]
- “Month” means calendar month ;
- “Oath” and “affidavit,” in the case of persons for the time being allowed by law to attest upon honour, affirm, or declare, instead of swearing, include attestation upon honour, affirmation, and declaration, and “swear” in the like case includes attest upon honour, affirm, and declare ; [Substituted for definition of “affidavit.”]
- “Order” means the final decision of the court in any matter, and also any decision of the court other than a final decision in any action or matter, and also the decision of the judge or registrar on any interlocutory application ;
- “Ordinary summons” means a summons which is issued on the entry of a plaint, and is not required by statute to be served personally ; [Feb. 1892.]
- “Treasurer” includes any person appointed by the Treasury to perform the functions of treasurer ;
- “Trial” means the hearing of any action or matter in court ;
- “Vessel” includes every description of vessel used in navigation not propelled by oars only.

We, ALFRED MARTINEAU, HENRY JOHN STONOR, RICHARD HARINGTON, WILLIAM LUCIUS SELFE, and WILLIAM CECIL SMYLY, being Judges of County Courts, appointed to frame Rules and Orders for regulating the Practice of the Courts and Forms of Proceedings therein, having, by virtue of the powers vested in us in this behalf, framed the foregoing Rules and Orders, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

(Signed) ALFRED MARTINEAU.  
HENRY J. STONOR.  
RICHARD HARINGTON.  
WILLIAM L. SELFE.  
WILLIAM CECIL SMYLY.

---

Approved,

(Signed) HALSBURY, *C.*  
ALVERSTONE, *C. J.*  
J. H. JEUNE, *P.*  
R. VAUGHAN WILLIAMS, *L. J.*  
ARTHUR KEKEWICH, *J.*  
A. M. CHANNELL, *J.*  
R. J. PARKER.

July 14, 1903.

I allow these Rules, which shall come into force on the 1st day of January, 1904.

(Signed)  
HALSBURY, *C.*

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# APPENDIX.

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349A-351A [Nov. '00]	443-445.	429 [new].	
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		447 [new].	
		448 ...	337B [Dec. '89].

## FORMS.

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**NOTE.**—*In all forms to be printed for the future the Number of Complaint and Number of Warrant should be put and the seal impressed on the right hand corner of the form, instead of the left hand corner, so as to facilitate reference where papers are joined together.*

*Summonses, Affidavits, Notices, Judgments, Orders, Warrants, and other proceedings taken under the Acts to which Orders XXXV., XXXVIII., XXXIX., XL., XLI., XLII., XLIII., XLIV., XLV., XLVI., XLVII., XLVIII., XLIX., L., and LI. relate, should be entitled with the Acts respectively referred to in those Orders.*

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### 1. [1.]

#### GENERAL FORM OF HEADING AND CONCLUSION OF ALL NOTICES AND ADMISSIONS.

In the County Court of	holden at	No. of Complaint.
	[Where sent or issued by Court. <i>Seal.</i> ]	
A.B.	Between	Plaintiff,
	and	
C.D.		Defendant.
*	*	*
Dated this	day of	19     ,

Registrar [or person sending notice  
or making admission].

To [the person to whom notice is sent].

---

Hours of Attendance at the Office of the Registrar [*Place of Office*] from Ten till Four o'clock, except on [*here insert the day on which the Office will be closed*] when the Office will be closed at One o'clock.

6. [New.]

PRÆCIPUE FOR ORDINARY SUMMONS.

Order V.,  
Rules 4-7.

In the County Court of

holden at

No. of Plaintiff

If the claim exceeds £2 two copies of the Plaintiff's accounts or particulars of claim are required before a Summons can be issued.

Plaintiff's Names in full, Residence  
or Place of Business, with No. of  
House.

Trade or Occupation

If Plaintiff is an Infant required to  
sue by a next friend, state that  
fact, and Names in full, Residence  
or Place of Business, and Trade or  
Occupation, of Next Friend.

If Plaintiff is Assignee, state that  
fact, and Name, Address, and  
description of Assignor.

Defendant's Names in full, Residence  
or Place of Business, with No. of  
House.

Whether male or female, and, if  
known, whether of full age or  
not, and, if female, whether  
married, single, or a widow.

Trade or Occupation

If a Company registered under the  
Companies Acts is Defendant,  
give address for service, and de-  
scribe it as "being the registered  
office of the Company."

Amount Claimed...	£	s.	d.	Solicitor's Costs ...	£	s.	d.

What the Claim is for—

Solicitor's Name and Address

## 7. [New.]

## PRÆCIPUE FOR DEFAULT SUMMONS.

In the County Court of

holden at

Order V.,  
Rules 4-6, 9.

No. of Plaint

To be served by

If the claim exceeds £2 two copies of the Plaintiff's particulars of claim are required before a Summons can be issued.

Plaintiff's Names in full, Residence  
or Place of Business, with No. of  
House. }

Trade or Occupation

If Plaintiff is an Infant required to  
sue by a next friend, state that  
fact, and Name in full, Residence  
or Place of Business, and Trade or  
Occupation, of Next Friend. }

Defendant's Names in full, Residence  
or Place of Business, with No. of  
House. }

Trade or Occupation

Whether male or female, and, if  
known, whether of full age or  
not, and, if female, whether  
married, single, or a widow. }

If a Company registered under the  
Companies Acts is Defendant,  
give address for service, and de-  
scribe it as "being the registered  
office of the Company." }

Amount Claimed ...	£	s.	d.	Solicitor's Costs ...	£	s.	d.
--------------------	---	----	----	-----------------------	---	----	----

What the Claim is for—

Solicitor's Name and Address

8 (1). [14AA., April, 1895.]

AFFIDAVIT FOR LEAVE TO ISSUE ORDINARY SUMMONS AGAINST DEFENDANT  
OUT OF THE DISTRICT.

51 & 52 Vict.  
c. 43, s. 74.  
Order V.,  
Rule 13 (2),  
(<sup>1</sup>) Name,  
residence, and  
occupation of  
deponent.

I, (<sup>1</sup>)

make oath and say as follows :—

[ *Where the demand is for a debt or liquidated claim.* ]1. That (<sup>2</sup>)is justly and truly indebted to me [ *or to* (<sup>3</sup>)

in the sum of £

for the price of goods

sold [ *or for money lent, or as the case may be* ].

(<sup>2</sup>) The like  
of proposed  
defendant.

(<sup>3</sup>) The like  
of proposed  
plaintiff.

[ *Or where the claim is unliquidated.* ]1. That I [ *or* (<sup>3</sup>)claim [ *or claims* ] to be entitled torecover from (<sup>2</sup>)

the sum of £

for

damages for breach of contract [ *or as the case may be* ].[ *Where residence, &c., within six months relied on.* ]

2. That the proposed Defendant within six months from the date hereof  
dwelt [ *or carried on business* ] within the district of this Court, that is to say,  
at in the county of . . .

[ *Or where cause of action or part relied on.* ]

2. That the cause of action in respect of which the proposed Defendant is  
proposed to be sued arose wholly or in part at in the  
county of within the district of this  
Court.

That the facts relied on as constituting the alleged cause of action or a  
part thereof are, that the order for the goods for the price of which [ *or for*  
non-acceptance of which, *or as the case may be* ]

an action is proposed to be brought was given at in  
the county of , within the district of this Court [ *or*  
that the proposed Defendant assaulted me [ *or the proposed Plaintiff* ] at  
in the county of within the district of  
this Court, *or as the case may be* ].

[ *Where an assignee of a debt applies for leave, add paragraph according  
to Form 8 (2).* ]



3. And I further say that I am a person in the employ of the proposed Plaintiff [*or as the case may be*],

To be added where proposed plaintiff does not make the affidavit.

and that the facts herein deposed to are within my own knowledge, and that I am duly authorised by the proposed Plaintiff to make this affidavit.

*Order to be placed at the foot.*

I do order that the above-named  
to enter a plaint in this Court against the above-named

be at liberty  
.  
Registrar.

8 (2). [14 F., June, 1896.]

PARAGRAPH TO BE ADDED WHERE THE PROPOSED PLAINTIFF IS ASSIGNEE  
OF A DEBT.

2A. That the debt for which an action is proposed to be brought was originally contracted by the proposed Defendant with *G.H.* (<sup>4</sup>)

ORDER V.,  
Rule 13 (3).  
(<sup>4</sup>) Name,  
residence, and  
occupation.

absolutely assigned to me [*or to the proposed Plaintiff*], by an assignment dated the                      day of                      , and was  
[*or*                      , the trustee in the bankruptcy of the said *G.H.*, *or as the case may be*]

of the one part, and me this deponent [*or the proposed Plaintiff*], of the other part, and on or about the                      day of                      express notice in writing of such assignment was given to the proposed Defendant.

9. [14BB., April, 1895.]

AFFIDAVIT FOR LEAVE TO ISSUE DEFAULT SUMMONS AGAINST DEFENDANT  
OUT OF THE DISTRICT, WHERE THE AMOUNT CLAIMED EXCEEDS 5*l.*

51 & 52 Vict.  
c. 43. ss. 74, 86.  
Order V.,  
Rule 13 (4).

I, (<sup>1</sup>)  
make oath and say as follows :—

(<sup>1</sup>) Name,  
residence, and  
occupation of  
deponent.

1. That (<sup>2</sup>)  
is justly and truly indebted to me [*or*  
to (<sup>3</sup>)                      ]  
in the sum of £                      for the price  
of goods sold [*or for money lent, or as the case may be*].

(<sup>2</sup>) The like of  
proposed  
Defendant.

(<sup>3</sup>) The like of  
proposed  
Plaintiff.

[*Where residence, &c., within six months relied on.*]

2. That the proposed Defendant within six months from the date hereof dwelt [*or carried on business*] within the district of this Court, that is to say, at                      in the county of

[*Or where cause of action or part relied on.*]

2. That the cause of action in respect of which the proposed Defendant is proposed to be sued arose wholly or in part at \_\_\_\_\_ in the county of \_\_\_\_\_, within the district of this Court.

That the facts relied on as constituting the alleged cause of action or a part thereof are, that the order for the goods for the price of which [*or as the case may be*]

an action is proposed to be brought was given at \_\_\_\_\_ in the county of \_\_\_\_\_, within the district of this Court [*or as the case may be*].

To be added where proposed plaintiff does not make the affidavit.

3. And I further say that I am a person in the employ of the proposed Plaintiff [*or as the case may be*],

and that the facts herein deposed to are within my own knowledge, and that I am duly authorised by the proposed Plaintiff to make this affidavit.

*Order to be placed at the foot.*

I do order that the above-named \_\_\_\_\_ be at liberty to enter a plaint and issue a default summons in this Court against the above-named \_\_\_\_\_

Registrar.

10. [14c., April, 1895.]

AFFIDAVIT FOR LEAVE TO ISSUE DEFAULT SUMMONS AGAINST DEFENDANT OUT OF THE DISTRICT, WHERE THE AMOUNT CLAIMED DOES NOT EXCEED 5*l*.

51 & 52 Vict c. 43, ss. 74, 86. Order V., Rule 13 (4).

I, <sup>(1)</sup>

make oath and say as follows :—

(<sup>1</sup>) Name, residence, and occupation of deponent.

(<sup>2</sup>) The like of proposed Defendant.

(<sup>3</sup>) The like of proposed Plaintiff.

1. That (<sup>2</sup>) \_\_\_\_\_ is justly and truly indebted to me [*or to* (<sup>3</sup>) \_\_\_\_\_] in the sum of £ \_\_\_\_\_ for the price of goods sold [*or for money lent, or as the case may be*].

[*Where residence &c. within six months relied on.*]

2. That the proposed Defendant within six months from the date hereof dwelt [*or carried on business*] within the district of this Court, that is to say, at \_\_\_\_\_ in the county of \_\_\_\_\_.

[*Or where cause of action or part relied on.*]

2. That the cause of action in respect of which the proposed Defendant is proposed to be sued arose wholly or in part at \_\_\_\_\_ in the county of \_\_\_\_\_ within the district of this Court.

That the facts relied on as constituting the alleged cause of action or a part thereof are, that the order for the goods for the price of which [*or as the case may be*]

an action is proposed to be brought was given at

in the county of

, within the district of this Court

[*or as the case may be*].

3. And I further say that my [*or the proposed Plaintiff's*] claim is for the price [*or value or hire*] of goods which, or some part of which, were sold and delivered [*or let on hire*] to the proposed Defendant to be used or dealt with in the way of his trade [*or profession or calling*] of a <sup>(4)</sup>

(\*) State trade, profession, or calling.

[*Or, if the preceding paragraph is not applicable, add in lieu thereof*

3. And I further say that the proposed Defendant is not a domestic or menial servant, a labourer, a servant in husbandry, a journeyman, an artificer, a handicraftsman, a miner, or a person engaged in manual labour.]

4. And I further say that I am a person in the employ of the proposed Plaintiff [*or as the case may be*],

To be added where proposed plaintiff does not make the affidavit.

and that the facts herein deposed to are within my own knowledge, and that I am duly authorised by the proposed Plaintiff to make this affidavit.

*Order to be placed at the foot.*

I do order that the above-named

be at liberty

to enter a plaint and issue a default summons in this Court against the above-named

Registrar.

# 11. [14D., April, 1895.]

AFFIDAVIT OF DEBT FOR ISSUE OF DEFAULT SUMMONS AGAINST  
DEFENDANT WITHIN THE DISTRICT, WHERE THE AMOUNT CLAIMED  
EXCEEDS 5*l*.

51 & 52 Vict.  
c. 43. s. 86.  
Order V.,  
Rule 14.

I, <sup>(1)</sup>  
make oath and say as follows :—

I. That <sup>(2)</sup>

is justly and truly indebted to me [*or to* <sup>(3)</sup>

in the sum of £  
*or as the case may be*].

for the price of goods sold [*or for money lent,*

(1) Name, residence, and occupation of deponent.  
(2) The like of proposed Defendant.  
(3) The like of proposed Plaintiff.

To be added  
where pro-  
posed plaintiff  
does not  
make the  
affidavit.

2. That I am a person in the employ of the proposed Plaintiff [*or as the case may be*],

and that the facts herein deposed to are within my own knowledge, and that I am duly authorised by the proposed Plaintiff to make this affidavit.

51 & 52 Vict.  
c. 43, s. 86.  
Order V.,  
Rules 14, 15.

(<sup>1</sup>) Name,  
residence, and  
occupation of  
deponent.

(<sup>2</sup>) The like  
of proposed  
Defendant.

(<sup>3</sup>) The like  
of proposed  
Plaintiff.

12. [14E., April, 1895.]

AFFIDAVIT OF DEBT FOR ISSUE OF DEFAULT SUMMONS AGAINST  
DEFENDANT WITHIN THE DISTRICT, WHERE THE AMOUNT CLAIMED  
DOES NOT EXCEED 5*l*.

I, (<sup>1</sup>)

make oath and say as follows :—

1. That (<sup>2</sup>)

is justly and truly indebted to me [*or to* (<sup>3</sup>)

in the sum of £  
*or as the case may be*].

for the price of goods sold [*or for money lent,*

2. That my [*or the proposed Plaintiff's*] claim is for the price [*or value or hire*] of goods which, or some part of which, were sold or delivered [*or let on hire*] to the proposed Defendant to be used or dealt with in the way of his trade [*or profession or calling*] of a (<sup>4</sup>)

(<sup>4</sup>) State  
trade, pro-  
fession, or  
calling.

[*Or, if the preceding paragraph is not applicable, add in lieu thereof*

2. That the proposed Defendant is not a domestic or menial servant, a labourer, a servant in husbandry, a journeyman, an artificer, a handicraftsman, a miner, or a person engaged in manual labour.]

To be added  
where  
proposed  
plaintiff  
does not  
make the  
affidavit.

3. That I am a person in the employ of the proposed Plaintiff [*or as the case may be*],

and that the facts herein deposed to are within my own knowledge, and that I am duly authorised by the proposed Plaintiff to make this affidavit.

## 13. [70.]

## AGREEMENT TO GIVE JURISDICTION TO A COUNTY COURT.

[*Not to be printed.*]

We, [the respective solicitors of] *A.B.* of, &c., and *C.D.* of, &c., do hereby agree that the County Court of \_\_\_\_\_ holden at \_\_\_\_\_ shall have power to try an action to be brought by *A.B.* against *C.D.* for \_\_\_\_\_ under the provisions of section 64 of the County Courts Act, 1888.

51 & 52 Vict.  
c. 43, s. 64.  
Order V.,  
Rule 2.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_ 19 .  
*A.B.* [*or E.F.*, Solicitor for *A.B.*]  
*C.D.* [*or G.H.*, Solicitor for *C.D.*]

## 14. [69.]

## AGREEMENT NOT TO APPEAL.

[*Not to be printed.*]

We, [the respective solicitors of] the above-named Plaintiff and Defendant, do hereby, under the provisions of section 123 of the County Courts Act, 1888, agree that the decision of His Honour the Judge of this Court in this action shall be final.

51 & 52 Vict.  
c. 43, s. 126.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_ 19 .  
Plaintiff [*or* 's Solicitor].  
Defendant [*or* 's Solicitor].

## 15. [64.]

## UNDERTAKING BY NEXT FRIEND OF INFANT TO BE RESPONSIBLE FOR DEFENDANT'S COSTS.

I, the undersigned *E.F.* \_\_\_\_\_ of \_\_\_\_\_, being the next friend of *A.B.* \_\_\_\_\_, who is an infant, and who is desirous of entering a plaint in this Court against *C.D.* \_\_\_\_\_ of, &c., hereby undertake to be responsible for the costs of the Defendant in such action, in the manner following: namely, if the said *A.B.* \_\_\_\_\_ fail to pay to the Defendant, when and in such manner as the Court shall order, all such costs of such action as the Court shall direct him to pay to the Defendant, I will forthwith pay the same to the Registrar of the Court.

Order V.  
Rule 16.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

*E.F.*

## 16. [67.]

## BOND FOR COSTS WHERE PLAINTIFF OUT OF ENGLAND.

[*Not to be printed.*]

Order V.,  
Rule 10.  
*This bond  
requires a  
stamp.*

Know all men by these presents that we, *A.B.*, of *C.D.*, of  
and *E.F.*, of are held and firmly bound to *G.H.*, of in  
the sum of £ to be paid to the said *G.H.*, or his certain attorney,  
executors, administrators, or assigns. For which payment to be well and truly  
made, we bind ourselves jointly and severally, and our and each of our heirs,  
executors, and administrators, firmly, by these presents.

Sealed with our seals and dated this day of 19 .

Whereas a plaint was upon the day of entered by  
the above-named *A.B.*, against the above-named *G.H.*, in the County Court of  
holden at :

I approve of  
this bond,  
*J.K.*  
Registrar.  
(L.S.)

And whereas it appeared upon the entry of such plaint that the said *A.B.*  
did not reside in England or Wales : And whereas it is directed by Rule 10 of  
Order V. of the County Court Rules that in such case the summons shall  
not be issued until security for costs, by deposit of money or otherwise, has  
been given to the satisfaction of the Registrar :

And whereas the said *A.B.* and the above bounden *C.D.* and *E.F.*, as  
sureties for the said *A.B.*, have agreed to give such security by entering into  
the above-written bond or obligation with the condition hereunder written, and  
the security has been approved of by the Registrar of the said County Court, as  
appears by his allowance in the margin hereof :

Now the condition of the above written bond is such, that if the said *A.B.*,  
the Plaintiff, or any Plaintiff substituted in his stead, shall discontinue, or  
become nonsuit in the said action, or in case the said action is referred to  
arbitration, and an award is made against the said *A.B.*, or any substituted  
Plaintiff therein, showing that he is not entitled to recover therein, or if the  
said *G.H.*, the Defendant, or any substituted Defendant, obtain a judgment or  
verdict or any other judgment therein, then or in either of the said cases if the  
above bounden *A.B.*, *C.D.*, and *E.F.*, or either of them, their or either of their  
heirs, executors, or administrators, do pay or cause to be paid to the said *G.H.*,  
or any substituted defendant, his executors, administrators, or assigns, his or  
their costs to be taxed in the said action, then this obligation shall be void  
and of no effect, otherwise the same shall be and remain in full force and  
virtue.

## 17. [68.]

## UNDERTAKING BY SOLICITOR TO BE RESPONSIBLE FOR COSTS.

[*Not to be printed.*][*Title of Action.*]

Order V.,  
Rule 10.

As solicitor for the above-named Plaintiff, I hereby undertake to be per-  
sonally responsible for any costs which the said plaintiff may be ordered to  
pay to the Defendant in this action.

Dated this of 19 .

Solicitor for the Plaintiff.

## 18. [6.]

## MEMORANDUM TO BE PUT ON ALL PLAINT NOTES.

*Bring this note when you come to the Court or to the office for any purpose connected with this action. On the day of trial bring all books, &c. necessary to prove your case.*

*Money will be paid out of Court ONLY on production of this note, and upon your or your agent's PERSONAL ATTENDANCE if you reside within the district.*

*If the Defendant will sign a statement at the office of the Registrar confessing that he owes you the money, or if you and he will sign an agreement at the Registrar's Office as to the amount due, and will consent to a judgment, you will only have to pay half the hearing fee.*

*If the debt or claim exceed five pounds you may have the action tried by a jury, on giving notice in writing at the Registrar's Office five clear days before the day of trial, and on payment of five shillings for the fees of such jury.*

*Summonses for witnessess and for the production of documents by them may be obtained at the office, upon payment of the proper fee.*

## 19. [7.]

## PLAINT-NOTE (ORDINARY SUMMONS).

In the County Court of                      holden at                      .

Order VII.,  
Rule 1.

(Seal.)

No. of Plaintiff.

Between

A.B.

Plaintiff

and

C.D.

Defendant.

Fees paid.

£	s.	d.

The above action was entered this day, and will be tried at  
on                      the                      day of                      at                      o'clock  
in the                      noon

Dated this                      day of                      19 .

Registrar.

*The hearing fee must be paid before the action is called on.*

**N.B.**—IF YOU OBTAIN A JUDGMENT AGAINST THE DEFENDANT, ALL MONEYS ORDERED TO BE PAID THEREUNDER MUST BE PAID INTO COURT, AND MUST NOT BE RECEIVED BY YOU. (*See sect. 105 of the County Courts Act, 1888.*)

20. [8.]

PLAINT-NOTE (DEFAULT SUMMONS) UNDER SECTION 86 OF THE COUNTY COURTS ACT, 1888.

Order VII.,  
Rule 1.

In the County Court of

holden at

:

No. of Plaintiff.

Between

*A.B.*

Plaintiff,

and

*C.D.*

Defendant.

(Seal.)

Fees paid.

£	s.	d.

The above action was entered this day, under section 86 of the County Courts Act, 1888, and you will be entitled to judgment at the expiration of eight days from the date of the personal service of the summons, inclusive of the day of such service, unless the Defendant gives notice of his intention to defend the action. Should such notice be given you will be informed by post thereof, and of the day and hour when the action will be tried.

Dated this                      day of                      19   .

Registrar.

Order VII.,  
Rule 36.

*N.B.*—If notice of defence be not given, judgment must be entered within two months from the day of service of the summons, after which period the action will be struck out.

21. [9.]

PLAINT-NOTE (DEFAULT SUMMONS) UNDER THE SUMMARY PROCEDURE ON BILLS OF EXCHANGE ACT, 1855.

18 & 19 Vict.  
c. 67.  
Order VII.,  
Rule 1.

In the County Court of

holden at

.

No. of Plaintiff.

(Seal.)

Between

*A.B.*

Plaintiff,

and

*C.D.*

Defendant.

Fees paid.

£	s.	d.



The above action was entered this day, under the Summary Procedure on Bills of Exchange Act, 1855, and you will be entitled to judgment at the expiration of twelve days from the personal service of the summons, inclusive of the day of such service, unless the Defendant obtains leave to defend the action. Should such leave be obtained you will be informed by post thereof, and of the day and hour when the action will be tried.

Dated this                      day of                      19   .

Registrar.

*N.B.*—If leave to defend has not been obtained, judgment must be entered within two months from the day of service of the summons, after which period the action will be struck out. Order VII., Rule 36.

[*N.B.*—*Plaint-notes, 19, 20, 21, to be printed on paper 9½ by 8 inches.*]

22. [11.]

ORDINARY SUMMONS.

(*To be used in cases for which other forms are not specially provided.*)

In the County Court of                      holden at

No. of Plaint. Order VII., Rule 2.  
(*Seal.*)

Between

*A.B.*

Plaintiff.

[*Address.*]

[*Description.*]

and

*C.D.*

Defendant.

[*Address.*]

[*Description.*]

(*a.*) [Issued by leave of the Judge [*or Registrar.*].]

You are hereby summoned to appear at a County Court to be holden at (*a.*) Insert this when necessary. Order VII., Rule 2. Order VI., Rule 1.  
on                      the                      day of                      19   , at the hour of  
in the                      noon, to answer the Plaintiff to a claim, the particulars of which  
are hereunto annexed. [*Where the amount of the claim does not exceed forty shillings, after "claim" strike out the words "the particulars of which are hereunto annexed," and state shortly the substance of the claim.*]

Registrar.

								£	s.	d.
Debt or claim	...	...	...	...	...	...	...			
Costs of plaint	...	...	...	...	...	...	...			
Solicitor's costs	...	...	...	...	...	...	...			
Total amount								£		

Dated this                      day of                      19   .  
To the Defendant.

*N.B*—IF YOU OWE THE MONEY, AND WILL CONSENT TO A JUDGMENT, YOU WILL SAVE HALF THE HEARING FEE.  
SEE BACK.

[*To be indorsed on the Summons.*]

If you confess the Plaintiff's claim,—by doing which you will save half the hearing fee,—you should sign a confession, printed forms for which may be obtained at any office, before the Registrar of any Court, and forward it to the Registrar of this Court five clear days before the return day, that is, the day of trial. The confession, if not signed before a Registrar, must be signed before a solicitor; but you may deliver your confession to the Registrar of this Court at any time before the action is called on, subject to the payment of any further costs which your delay may have caused the Plaintiff to incur.

If you and the Plaintiff can agree as to the amount due and the mode of payment, and will before the action is called on for trial sign a memorandum of such agreement at the Registrar's office of this Court or before a solicitor, you will save half the hearing fee.

If you pay the debt and costs, as stated in the summons, into the Registrar's office, five clear days before the day of trial, you will avoid further costs, unless the judge orders you to pay any further costs properly incurred by the Plaintiff before receiving notice of such payment; but you may pay the same at any time before the action is called on for trial, subject to the payment of any further costs which your delay may have caused the Plaintiff to incur.

If you admit a part only of the claim, you may, by paying into the Registrar's office the amount so admitted, five clear days before the day of trial, together with costs proportionate to such amount, avoid further costs, unless the Plaintiff proves at the trial an amount exceeding your payment, or the Judge orders you to pay any further costs properly incurred by the Plaintiff before receiving notice of such payment.

If you intend to dispute the Plaintiff's claim on any of the following grounds,—

1. That the Plaintiff owes you a debt which you claim should be set off against it;
2. That you were under twenty-one when the debt claimed was contracted;
3. That you were then, or are now, a married woman;
4. That the debt claimed is more than six years old;
5. That you have been discharged from the Plaintiff's claim under a Bankrupt or Insolvent Act;
6. That you have already tendered to the Plaintiff what is due;
7. That you have a statutory or equitable defence;

You must give notice thereof to the Registrar five clear days before the day of trial; and such notice must contain the particulars prescribed by the County Court Rules; and you must deliver to the Registrar as many copies of such notice as there are Plaintiffs, and an additional copy for the use of the Court. If your DEFENCE be a SET-OFF, you must, with the notice thereof, also deliver to the Registrar a statement of the particulars thereof. If your DEFENCE be a TENDER, you must pay into court the amount tendered.

If the debt or claim exceeds five pounds you may have the action tried by a jury, on giving notice in writing at the Registrar's office five clear days before the day of trial, and on payment of five shillings for the fees of such jury.

Summonses for witnesses and for the production of documents by them will be issued upon application at the office of the Registrar of this Court, upon payment of the proper fee.

NOTE.—An ordinary summons to be printed in pica type, leaded, on a half sheet of cream wove foolscap, fourteen pounds or thereabouts.

23. [16A., Feb. 1892.]

DEFAULT SUMMONS UNDER SECTION 86 OF THE COUNTY COURTS ACT, 1888.

51 & 52 Vict.  
c. 43. s. 86.  
Order VII.,  
Rule 2.

[Heading and Conclusion as in Ordinary Summons, No. 22.]

Take notice, that unless within eight days after the personal service of this summons on you, inclusive of the day of such service, you return to the Registrar of this Court at [place of office] the notice given below, dated and

	£	s.	d.
Claim ... ..	...	...	...
Fee for plaint ...	...	...	...
Solicitor's costs...	...	...	...
Total amount of debt and costs }	...	...	...

signed by yourself or your solicitor, you will not afterwards be allowed to make any defence to the claim which the Plaintiff makes on you, as per margin, the particulars of which are hereunto annexed; but the Plaintiff may, without giving any further proof in support of such claim than the affidavit filed in Court herein, proceed to judgment and execution. If you return such notice

to the Registrar within the time specified, the Registrar will send you by post notice of the day upon which the action will be tried.

See below.

[N.B.—This summons must be served personally on the Defendant within a period of twelve months from the date thereof, or within such extended period as may be allowed.]

#### NOTICE OF INTENTION TO DEFEND.

[To be at foot of Summons.]

No. of Plaintiff.

In the County Court of\* holden at

\*A.B. v. C.D.

I intend to defend this action.

Dated this day of 19 .

\_\_\_\_\_ (1) Defendant.

Address to which notice of trial is to be sent.

\*(To be filled in by Registrar previous to issue of summons.)

SEE BACK.

[To be indorsed on the Summons.]

If you pay the debt and costs, as per margin on the other side, into the Registrar's office, before the expiration of eight days from the date of service of this summons, inclusive of the day of such service, and without returning the notice of intention to defend, you will avoid further costs.

(1) Here must be signed the name of Defendant or of his solicitor, and in the latter case the words "solicitor for," together with his address, must be prefixed.

If you do not return the notice of intention to defend, but allow judgment against you by default, you will *save half the hearing fee*, and the order upon such judgment will be to pay the debt and costs forthwith [*or by instalments, (to be specified as in Plaintiff's written consent)*].

If you admit a part only of the claim, you must return the notice of intention to defend within the time specified on the summons; and you may, by paying into the Registrar's office at the same time the amount so admitted, together with costs proportionate to such amount, avoid further costs, unless the Plaintiff proves at the trial an amount exceeding your payment.

[If you return the notice of intention to defend, you may pay the debt and costs, or, if you admit a part only of the claim, the amount so admitted, together with costs proportionate to such amount, into the Registrar's office at any time before the action is called on for trial, and by so doing you may avoid further costs, unless the Plaintiff proves at the trial an amount exceeding your payment, or the Judge orders you to pay any further costs properly incurred by the Plaintiff before receiving notice of such payment.]

If you intend to dispute the Plaintiff's claim on any of the following grounds,—

1. That the plaintiff owes you a debt which you claim should be set off against it;
2. That you were under twenty-one when the debt claimed was contracted;
3. That you were then, or are now, a married woman;
4. That the debt claimed is more than six years old;
5. That you have been discharged from the Plaintiff's claim under a Bankrupt or Insolvent Act;
6. That you have already tendered to the Plaintiff what is due;
7. That you have a statutory or equitable defence;

You must give notice thereof to the registrar five clear days before the day fixed for the trial; and such notice must contain the particulars required by the County Court Rules; and you must deliver to the Registrar as many copies of such notice as there are Plaintiffs, and an additional copy for the use of the Court. If your defence be a set-off, you must, with the notice thereof, also deliver to the Registrar a statement of the particulars thereof. If your defence be a tender, you must pay into court the amount tendered.

[If the debt or claim exceeds five pounds you may have the action tried by a jury, on giving notice in writing at the Registrar's office five clear days before the day fixed for the trial, and on payment of five shillings for the fees of such jury.]

Summonses for witnesses and for the production of documents by them will be issued upon application at the office of the Registrar of this Court, upon payment of the proper fee.

NOTE.—*This summons is to be printed on a half sheet of salmon-tinted foolscap paper (14 lbs. or thereabouts), with the "Notice of Intention to Defend" separated by a perforated line, so that it may be torn off for transmission to the Registrar.*

## 24. [20.]

## NOTICE BY PLAINTIFF OF CONSENT TO ACCEPT INSTALMENTS.

*(To be annexed to a Default Summons.)*

Take notice, that payment of the amount sued for herein will be accepted by instalments of [*state amount of instalment*] payable on the [*state the time or times at which instalments will be accepted.*]

Order V.,  
Rule 19.

Dated this                      day of                      19 .

[*Plaintiff*] or  
[*Plaintiff's Solicitor*].To the above-named [*Defendant or Defendants.*]

## 25. [17A., Feb., 1892.]

## DEFAULT SUMMONS UNDER THE SUMMARY PROCEDURE ON BILLS OF EXCHANGE ACT, 1855.

*[Heading and Conclusion as in Ordinary Summons, No. 22.]*

Take notice, that unless within twelve days after the service of this summons on you, inclusive of the day of such service, you obtain leave from the Judge or Registrar of this Court to defend this action, the Plaintiff may proceed to judgment and execution.

18 & 19 Vict.,  
c. 67.  
Order VII.,  
Rule 2.

The Plaintiff's claim is for £                      on a bill of exchange [*or promissory note*], the particulars whereof are hereunto annexed, and the sum of                      for Court fees [*and for solicitor's costs herein*]: And if the amount thereof be paid to the Registrar of this Court within four days from the service hereof, no further proceedings will be taken.

Leave to defend may be obtained upon application at the office of the Registrar of this Court, supported by affidavit, showing that there is a defence to the action on the merits, or disclosing facts showing that it is reasonable that the Defendant should be allowed to defend the action.

[N.B.—This summons must be served personally on the Defendant within a period of twelve months from the date thereof, or within such extended period as may be allowed.]

NOTE.—*This summons to be printed in pica type, leaded, on a half sheet of salmon tinted foolscap paper, 14 lbs. or thereabouts.*

## 26. [17B., Feb., 1892.]

## PARTICULARS IN ACTION UNDER THE SUMMARY PROCEDURE ON BILLS OF EXCHANGE ACT, 1855.

*[Heading and Conclusion as in Form 1.]*

The Plaintiff claims £                      for principal and interest [*or balance of principal and interest*] due to him as the payee [*or indorsee*] of a bill of exchange [*or promissory note*] of which the following is a copy.

Order VI.,  
Rule 1.  
Order  
XXXV.,  
Rule 1.[*Here copy bill of exchange or promissory note and all indorsements upon it.*]And also                      shillings for noting and bank expenses [*if paid*].

## 27. [10.]

## LETTER TO BE SENT WITH SUMMONS OUT OF DISTRICT.

No. of Plaintiff.

Order II.,  
Rule 5.

In the County Court of

holden at

Sir,

I hereby request that you will serve the accompanying summons immediately, and return the inclosed copy of the same to me, properly indorsed, showing the fact, place, and mode of service. The Defendant [*or witness*] is stated to reside at [*here insert the full address given in the summons.*]

Your obedient servant,

Registrar.

To the High Bailiff of the County Court  
of

holden at

## 28. [19.]

## LETTER TO BE SENT WITH DEFAULT SUMMONS OUT OF DISTRICT.

In the County Court of

holden at

Sir,

Order II  
Rule 5.

I hereby request that you will have the accompanying summons personally served, and return the inclosed copy of the same to me, properly indorsed, showing the fact, place, and mode of service. The Defendant is stated to reside at

On presentation of this letter to the Treasurer of your Court, he is to pay you the fee of shillings.

Your obedient servant,

Registrar.

To the High Bailiff of the County Court  
of

holden at

## 29. [New.]

## INDORSEMENT ON COPY OF ORDINARY SUMMONS AFTER SERVICE.

Order II.,  
Rule 23.  
Order VII.,  
Rule 10.

Served the summons of which this is a true copy [*add, if so, with copy of affidavit annexed*] on the day of 19 , at

by delivering the same to the Defendant personally [*or by delivering the same at the house [or place of dwelling or place of business] of the Defendant, to apparently not less than 16 years old, [add the statement made, as who promised to give the same to the Defendant the same day, or as the case may be].*

Bailiff of the

County Court.

[*If the summons has been served in any other manner, pursuant to the provisions of Order VII., the mode of service must be stated in the indorsement.*]

## 30. [12A., Feb., 1892.]

## NOTICE OF NON-SERVICE OF ORDINARY OR JUDGMENT SUMMONS.

Order II.,  
Rules 5, 24.

Take notice, that the summons [*or judgment summons*] in this action has not been served, for the following reason :—

Dated this                      day                      19  
To the Plaintiff.

## 31. [13.]

## NOTICE OF DOUBTFUL SERVICE OF ORDINARY SUMMONS.

Take notice, that the summons in this action was left at the address given by you, and [*here insert the bailiff's return of service, as indorsed on the copy of the summons*]. You must therefore be prepared, if the Defendant does not appear at the hearing, to satisfy the Court that the summons has come to the knowledge of the Defendant before the return day.

Order II.,  
Rules 6, 25.

To the Plaintiff.

## 32. [11A., May, 1899.]

INDORSEMENT ON COPY OF SUMMONS SERVED OR TO BE SERVED ON  
COMPANY REGISTERED UNDER THE COMPANIES ACTS, 1862 TO 1900.

25 & 26 Vict.  
c. 89. ss. 62.63.

(1.) *Where bailiff ascertains that the registered office of the company is situate at the address given on the summons, or at some other address within the district.*

Order II.,  
Rules 23, 26  
(2, 3).

Served the summons of which this is a true copy on the defendant company on the                      day of                      , 19                      , by leaving the same [*or by sending the same through the post in a prepaid letter addressed to the company*] at                      [*state address*], I having ascertained by seeing the words "Registered Office" painted or affixed on the outside of the premises [*or by inquiry at the premises*] that the registered office of the company is situate at such address.

(2.) *Where bailiff is unable to ascertain whether the registered office of the company is situate at the address given on the summons.*

Order II.,  
Rule 26 (4).

Served the summons of which this is a true copy on the                      day of                      , 19                      , by leaving the same [*or by sending the same through the post in a prepaid letter addressed to the defendant company*] at the address given on the summons; but I have been unable to ascertain whether the registered office of the company is situate at such address.

(3.) *Where bailiff ascertains that the registered office is not situate at the address given on the summons, and does not ascertain that it is situate at some other address within the district.*

Order II.,  
Rule 26 (5).

Not served, I having ascertained that the registered office of the defendant company is not situate at the address given on the summons, and not having ascertained that it is situate at any other address within the district.

## 33. [13A., May, 1899.]

NOTICE OF DOUBTFUL SERVICE OF SUMMONS ON COMPANY REGISTERED  
UNDER THE COMPANIES ACTS, 1862 TO 1900Order II.,  
Rule 26 (4).

Take notice, that the summons in this action was served at the address given by you : but the bailiff has been unable to ascertain whether the registered office of the defendant company is situate at such address.

You must therefore be prepared, if the defendant company does not appear at the hearing, to satisfy the Court that the registered office of the defendant company is situate at such address.

To the Plaintiff.

---

## 34. [18.]

INDORSEMENT ON COPY OF DEFAULT OR JUDGMENT SUMMONS AFTER  
SERVICE.Order II.,  
Rule 23.

The summons of which this is a true copy [*add, if so, with copy of affidavit annexed*] was served by \_\_\_\_\_ personally on  
[*the Defendant or the Defendants*] at \_\_\_\_\_ on the \_\_\_\_\_ day of  
19 \_\_\_\_\_ [*add, if travelling expenses paid or tendered with judgment*  
summons, and the sum of \_\_\_\_\_ was paid [*or tendered*] to the  
said \_\_\_\_\_ for his expenses].

Bailiff of the

County Court.

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## 35. [22.]

## NOTICE OF SERVICE OF DEFAULT SUMMONS.

Order II.,  
Rule 31.

You are hereby informed that the Defendant was on the \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_\_, served with the summons issued in this action.

High Bailiff.

To the Plaintiff.

---

## 36. [23.]

## NOTICE OF NON-SERVICE OF DEFAULT SUMMONS.

Order II.,  
Rule 31.

Take notice, that the summons in this action has not been served, for the following reason :—

High Bailiff.

To the Plaintiff.

---



**To the Defendant.**

## 40. [26.]

## NOTICE OF LEAVE GIVEN TO DEFEND.

The Summary Procedure on Bills of Exchange Act, 1855.

18 & 19 Vict.  
c. 67.  
Order  
XXXV., Rule  
3.  
Take notice, that the Defendant has obtained leave to defend this action at a Court to be held at                      on                      the                      day of                      19                      , at                      o'clock in the                      noon.

The Defendant has obtained such leave on the grounds set forth in an affidavit, a copy of which is hereunto annexed [and has paid to me the sum claimed by you, to abide the decision of the Court], [*or* has given security for the amount claimed by you, and the costs of this action].

Registrar.

To the Plaintiff.

## 41. [27.]

NOTICE TO DEFENDANT OF DAY ON WHICH ACTION IS TO BE TRIED  
UPON LEAVE BEING GIVEN TO DEFEND.

The Summary Procedure on Bills of Exchange Act, 1855.

18 & 19 Vict.  
c. 67.  
Order  
XXXV., Rule  
3.  
You having obtained leave to defend this action, take notice that the same will be tried at                      on                      the                      day of                      19                      , at                      o'clock in the                      noon.

Registrar.

To the Defendant.

## 42. [28.]

18 & 19 Vict.  
c. 67.  
BOND UNDER THE SUMMARY PROCEDURE ON BILLS OF EXCHANGE ACT,  
1855.

[*Not to be printed.*]

Know all men by these presents, that we, *A.B.*, of, &c., and *C.D.*, of, &c., and *E.F.*, of, &c., are jointly and severally held and firmly bound to *G.H.*, of, &c., in the sum of £                      to be paid to the said *G.H.*, or his certain attorney, executors, administrators, or assigns. For which payment to be well and truly made we bind ourselves jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated this                      day of                      one thousand nine hundred and                      .

Whereas an action                      has been brought in the County Court of                      , wherein the above-named *G.H.* is Plaintiff, and the above-bounden *A.B.* is Defendant, on a certain bill of exchange [*or* promissory note] under the Summary Procedure on Bills of Exchange Act, 1855 :

And whereas leave has been duly given, according to the provisions of the said Act, to the said *A.B.* to defend the said action, upon his giving security to be approved by the Registrar of the Court aforesaid, for the amount claimed in the said action and the costs of the trial thereof :

I approve of  
this bond.  
*I.K.*  
Registrar  
(L.S.)  
*This bond  
requires a  
stamp.*

And whereas the said *A.B.* and the above-bounden *C.D.* and *E.F.*, as sureties for the said *A.B.*, have agreed to give such security by entering into the above-written bond or obligation with the condition hereunder written, and the security intended to be hereby given has been approved of by the Registrar of the said County Court, as appears by his allowance in the margin hereof : Now the condition of the above written bond is such, that if the above bounden *A.B.*, *C.D.*, and *E.F.*, any or either of them, shall pay unto the said *G.H.*, his executors, administrators, or assigns, the amount for which judgment may be given in the said action, and all costs which may be awarded to the Plaintiff, then this obligation shall be void and of no effect, otherwise the same shall remain in full force and virtue.

<i>A.B.</i>	(L.S.)
<i>C.D.</i>	(L.S.)
<i>E.F.</i>	(L.S.)

Signed, sealed, and delivered by the above-bounden in the  
presence of

NOTE.—*If a deposit of money be made the memorandum thereof should follow the terms of the condition of the bond, and will not require a stamp.*

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#### 43. [29.]

[*Not to be printed.*]

#### AFFIDAVIT IN SUPPORT OF APPLICATION FOR SUBSTITUTED SERVICE.

*I, J.S.*, [*address and description*] make oath and say as follows :—

*State facts showing either that the summons has come to the knowledge of Defendant, or that he wilfully evades service of the same. Or, that upon inquiry at his usual place of abode, or at any other place where prior to the time when the plaint was entered he might probably have been met with, he could not be found so as to be served, and that in either case there is just ground to believe that he has gone out of the realm or otherwise absconded to avoid being served.*

Order VII.,  
Rule 40.

*Then state deponent's means of knowledge of the facts deposed to*

Sworn, &c.

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## 44. [30.]

## ORDER FOR SUBSTITUTED SERVICE.

[*Not to be printed.*]

Order VII.,  
Rule 40.  
Order  
XXXIX.,  
Rules 14, 17.

Upon reading an affidavit of \_\_\_\_\_ of \_\_\_\_\_, in the  
county of \_\_\_\_\_ sworn the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ :

It is ordered that the delivery of a sealed copy of the summons issued in this action, together with a sealed copy of this order, to some adult inmate at the usual [*or last known*] place of residence [*or business*] of the above-named Defendant *C.D.*, situate and being at \_\_\_\_\_ in the county of \_\_\_\_\_ [*or that delivery of a sealed copy of the summons issued in this action, together with a sealed copy of this order, by registered post addressed to the Defendant C.D. at \_\_\_\_\_ in the county of \_\_\_\_\_, being the usual [or last known] place of residence [or business] of the said Defendant*], shall be deemed to be good and sufficient service of the said summons on the said Defendant on the day of such delivery.

[*Or, that notice of the entry of the above-named plaint be published in the \_\_\_\_\_, and that the publication of such notice shall be deemed to be good and sufficient service of the summons upon the Defendant C.D.*]

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

Registrar.

## 45. [31.]

## SUBSTITUTED SERVICE.—NOTICE IN PAPERS

[*Not to be printed.*]

Order VII.  
Rule 40.  
Order  
XXXIX.,  
Rules 14, 17

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_ .  
To *C.D.* of \_\_\_\_\_ .

Take notice, that a plaint has been entered and a summons issued against you in the above County Court by *A.B.*, of \_\_\_\_\_, for the sum of £ \_\_\_\_\_ for goods sold and delivered [*or as the case may be*] and an order has been made that the publication of a notice of the entry of such plaint in the \_\_\_\_\_ shall be deemed to be good and sufficient service of the summons upon you,

The summons will be heard at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, on which day you are required to appear; and if you do not appear either in person or by your solicitor at the time and place above mentioned, such order will be made and proceedings taken as the Judge may think just and expedient.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

Registrar.

## 46. [32.]

ORDER FOR LEAVE TO PROCEED AS IF SERVICE HAD BEEN EFFECTED OF  
DEFAULT SUMMONS.

[*Not to be printed.*]

51 & 52 Vict.  
c. 43. s. 86.  
18 & 19 Vict.  
c. 67.  
Order VII.,  
Rules 34, 39.

On the application of \_\_\_\_\_, and on reading the affidavit of  
\_\_\_\_\_, I do order that on (*state terms of order*) the Plaintiff  
be at liberty to proceed as if the above Defendant had been personally served  
with the summons in this action.

Judge [*or* Registrar.]

## 47. [New.]

ORDER FOR SERVICE ON DEFENDANT OUT OF ENGLAND AND WALES.

Order VII.,  
Rule 45.

[*Not to be printed.*]

Upon hearing \_\_\_\_\_, and upon reading the affidavit of  
sworn the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_,

It is ordered that [*the intended plaintiff*] be at liberty to issue a summons  
against [*the intended defendant*].

And it is further ordered that the Plaintiff be at liberty to serve [*if a  
foreigner in a foreign country insert notice of*] the said summons at [*here  
insert country or place within the limits of which the service is to be effected*]  
or elsewhere in the \_\_\_\_\_, and that the hearing of the said  
summons shall be proceeded with on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_,  
at \_\_\_\_\_ in the \_\_\_\_\_ noon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Registrar.

## 48. [New.]

NOTICE TO ACCOMPANY SUMMONS TO BE SERVED ON DEFENDANT OUT  
OF ENGLAND AND WALES.

Order VII.,  
Rule 46.

Take notice, that by leave of the Judge a plaint has been entered and a  
summons issued against you in the above-named County Court by A.B.  
of \_\_\_\_\_, a copy of which summons is hereto annexed.

The summons will be heard at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_\_, on which day you are required to appear; and if you do not  
appear either in person or by your solicitor at the time and place above-  
mentioned, such order will be made and proceedings taken as the Judge may  
think just and expedient.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Registrar.

To the Defendant [*naming him.*]

## 49. [New.]

Order VII.  
Rule 47.

NOTICE OF SUMMONS IN LIEU OF SERVICE OF SUMMONS TO DEFENDANT  
OUT OF ENGLAND AND WALES.

Take notice, that by leave of the Judge a plaint has been entered and a summons issued against you in the above-named County Court by *A.B.*  
of \_\_\_\_\_ for [*copy in the full particulars annexed to the summons*].

The summons will be heard at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day  
of \_\_\_\_\_ 19\_\_\_\_, on which day you are required to appear; and if you  
do not appear either in person or by your solicitor at the time and place above-  
mentioned, such order will be made and proceedings taken as the Judge may  
think just and expedient.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

To the Defendant [*naming him.*]

Registrar.

---

50. [64A., May, 1899].

AFFIDAVIT ON APPLICATION ON BEHALF OF INFANT OR PERSON OF UNSOUND  
MIND FOR APPOINTMENT OF GUARDIAN AD LITEM.

[*Not to be printed.*]

I, \_\_\_\_\_, make oath and  
say as follows :—

Order VII.,  
Rule 50 (1). 1. The summons in this action [*or matter*] was served on the defendant  
*C.D.* on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

2. The defendant is an infant [*or a person of unsound mind not so found by  
inquisition*].

3. *E.F.*, \_\_\_\_\_ of \_\_\_\_\_, is a fit and proper person  
to act as guardian *ad litem* of the above-named defendant, and has no interest  
in the matters in question in this action [*or matter*] adverse to that of the  
defendant, and the consent of the said *E.F.* \_\_\_\_\_ to act as such guardian  
is hereto annexed.

Sworn, &c.

FORM OF CONSENT TO BE ANNEXED TO AFFIDAVIT.

I, *E.F.*, \_\_\_\_\_ of \_\_\_\_\_, consent to act as guardian *ad litem*  
of *C.D.* \_\_\_\_\_, an infant [*or a person of unsound mind not so found by  
inquisition*], a defendant in this action [*or matter*], [and I authorise Mr.  
\_\_\_\_\_ to defend this action [*or matter*]].

Signature of Guardian.

---

51. [64B., May, 1899].

## ORDER APPOINTING GUARDIAN AD LITEM.

On the application of \_\_\_\_\_, and on reading the affidavit of \_\_\_\_\_, filed on the \_\_\_\_\_ day of \_\_\_\_\_, and the consent thereto annexed, Order VII., Rule 50 (1)

It is ordered that *E.F.*, \_\_\_\_\_ of \_\_\_\_\_ be appointed to act as guardian *ad litem* of the defendant *C.D.* an infant [*or* a person of unsound mind not so found by inquisition].

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Registrar.

52. [64C., May, 1899].

## NOTICE TO PLAINTIFF OF APPOINTMENT OF GUARDIAN AD LITEM.

Take notice, that the summons in this action [*or* matter] was served on the \_\_\_\_\_ day of \_\_\_\_\_ on the defendant *C.D.*, \_\_\_\_\_, who is an infant [*or* a person of unsound mind not so found by inquisition], and that *E.F.*, \_\_\_\_\_ of \_\_\_\_\_, has been appointed to act as guardian *ad litem* of the said defendant. Order VII., Rule 50 (2)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Registrar.

53. [64D., May, 1899].

## NOTICE TO PLAINTIFF WHERE NO APPLICATION MADE ON BEHALF OF INFANT OR PERSON OF UNSOUND MIND FOR APPOINTMENT OF GUARDIAN AD LITEM.

Take notice, that the summons in this action [*or* matter] was served on the \_\_\_\_\_ day of \_\_\_\_\_, on the defendant *C.D.*, \_\_\_\_\_, who is an infant [*or* a person of unsound mind not so found by inquisition], and that no application has been made on behalf of the said defendant for the appointment of a person to act as guardian *ad litem*. Order VII., Rule 50 (3)

And further take notice, that before proceeding further with this action [*or* matter] against the said defendant you must apply to the Judge for an order that some proper person be assigned as guardian of the said defendant, by whom he may appear and defend.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Registrar.

To the plaintiff and Mr.  
his solicitor.

## 54. [64E., May, 1899].

APPLICATION BY PLAINTIFF FOR APPOINTMENT OF GUARDIAN AD LITEM TO  
DEFENDANT WHO IS AN INFANT OR A PERSON OF UNSOUND MIND.[*Not to be printed.*]Order VII.,  
Rule 50 (5).

Take notice, that I intend to apply to the Judge at  
on the day of at the hour of  
in the noon, for an order appointing *G.H.*, of  
or some other proper person, guardian *ad litem* of the defendant *C.D.*,  
who is an infant [*or a person of unsound mind not so*  
found by inquisition] and that I shall apply, if necessary, for the postponement  
of the trial.

And further take notice, than an affidavit of , filed this  
day (a copy of which accompanies this notice) will be read in support of  
such application.

Dated this day of 19 .

Plaintiff,

[*or Solicitor for the plaintiff*].

To the defendant *C.D.*,  
and to the father  
[*or guardian*] of the said *C.D.*,  
and to the Registrar of the Court.

## 55. [64F., May, 1899.]

AFFIDAVIT IN SUPPORT OF APPLICATION BY PLAINTIFF FOR APPOINTMENT  
OF GUARDIAN AD LITEM TO DEFENDANT.[*Not to be printed.*]

ORDER VII., I, , of , make oath and say as  
Rule 50 (5) follows :—

1. I am informed by the Registrar that the summons in this action [*or*  
matter] was on the day of , served on the defendant  
*C.D.* , who is an infant [*or a person of unsound mind not so*  
found by inquisition], and that no application has been made to the Court  
on behalf of the said defendant for the appointment of a guardian *ad litem*.

2. *G.H.*, of , is a fit and proper person to act as  
guardian *ad litem* of the above-named defendant, and has no interest in the  
matters in question in this action [*or matter*] adverse to that of the said  
defendant.

3. The consent of the said *G.H.*, to act as such guardian  
is hereto-annexed.

Sworn, &c.



## FORM OF CONSENT TO BE ANNEXED TO AFFIDAVIT.

I, *G.H.*, of \_\_\_\_\_, consent to act as guardian *ad litem* of *C.D.*, an infant [*or* a person of unsound mind not so found by inquisition], a defendant in this action [*or* matter], [and I authorise Mr. \_\_\_\_\_ to defend this action [*or* matter].

Signature of Guardian.

---

56. [64G., May, 1899.]

## ORDER APPOINTING GUARDIAN AD LITEM ON APPLICATION OF PLAINTIFF.

Upon the application of the plaintiff for the appointment of *G.H.*, ORDER VII., Rule 50 (6).  
of \_\_\_\_\_, or some other proper person, guardian *ad litem*  
of the defendant *C.D.*, who is an infant [*or* a person of unsound  
mind not so found by inquisition], and upon reading the affidavit of  
filed on the \_\_\_\_\_ day of \_\_\_\_\_, and the consent thereto  
annexed,

And upon hearing Mr. \_\_\_\_\_, on behalf of the said defendant,

I do order that *G.H.*, of \_\_\_\_\_, be appointed to act as guardian  
*ad litem* of the said defendant.

[*or, if the person proposed by the plaintiff is not appointed,*

And it appearing to me that the said *G.H.*, \_\_\_\_\_ is not a proper  
person to be appointed such guardian, and that *J.L.*, \_\_\_\_\_ of \_\_\_\_\_,  
is a proper person to be appointed such guardian, and is willing to act as  
such guardian,

I do order that the said *J.L.*, \_\_\_\_\_ be appointed to act as guardian  
*ad litem* of the said defendant.]

[*or, in default of any other person being willing to act,*

And it appearing to me that the said *G.H.*, \_\_\_\_\_ is not a proper  
person to be appointed such guardian, and that there is no other proper person  
willing to act as such guardian,

I do order that the Registrar of this Court be appointed to act as guardian  
*ad litem* of the said defendant.]

[And I do further order that the hearing of this action [*or* matter] be  
postponed till \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock in  
the \_\_\_\_\_ noon.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Judge.

---

57. [65A., May, 1899.]

ORDER APPOINTING GUARDIAN AD LITEM NAMED BY INFANT DEFENDANT  
APPEARING AT THE TRIAL.ORDER VI.,  
Rule 51 (1).

Whereas now at the trial of this action [*or matter*] the Defendant *C.D.*  
being an infant, appears here in Court and names *E.F.*  
of , to act as his guardian, who now assents to act  
as such guardian ;

It is ordered that the said *E.F.* be, and he is hereby  
appointed to be, guardian of the said defendant, to act on his behalf in this  
action [*or matter*].

58. [66A., May, 1899.]

ORDER APPOINTING GUARDIAN AD LITEM OF INFANT DEFENDANT  
APPEARING AT THE TRIAL AND NOT NAMING A GUARDIAN.ORDER VII.,  
Rule 51 (1).

Whereas now at the trial of this action [*or matter*] the Defendant *C.D.*,  
being an infant, appears here in Court and does not name a  
guardian ;

It is ordered that *G.H.*, of , [*or the Registrar of this Court*]  
be, and he is hereby appointed to be, guardian of the said defendant, to act  
on his behalf in this action [*or matter*].

59. [116.]

## ORDER FOR CONSOLIDATION.

[*Not to be printed.*]Order VIII.,  
Rules 1, 4.

In the County Court of	holden at	.
		Plaint No. .
	Between	
<i>A.B.</i>		Plaintiff,
	and	
<i>C.D.</i>		Defendant,
	and between	
		Plaint No. .
<i>A.B.</i>		Plaintiff,
	and	
<i>C.D.</i>		Defendant.

[*Add the plaint numbers and titles of all the actions to be consolidated.*]

Whereas the above mentioned *A.B.* has commenced the [two] actions above  
mentioned against the above mentioned *C.D.* for or in respect of different

causes of action which might have been joined in one action : And whereas the aggregate amount of the debts and damages claimed [*or* the aggregate claims] in the said actions does [*or* do] not exceed the jurisdiction of this Court :

I do therefore order that the said actions be consolidated and tried together as one action [*add any special terms*].

[And I do further order that the Plaintiff do pay and bear in any event all costs thrown away by reason of the bringing of [two] actions instead of one, and that the costs of and incident to this application and the order consequent thereon be the Defendant's costs in any event.] Order VIII.,  
Rule 4.

And I do further order that this order shall be drawn up and served on the said *A.B.*

Dated this                      day of                      19                      .

Judge.

## 60. [117.]

### UNDERTAKING BY DEFENDANT APPLYING FOR STAY OF PROCEEDINGS.

[*Not to be printed.*]

In the County Court of	holden at	•	
		Plaint No.	•
	Between		
<i>A.B.</i>		Plaintiff,	
	and		
<i>C.D.</i>		Defendant,	
	and between		
		Plaint No.	•
<i>E.F.</i>		Plaintiff,	
	and		
<i>C.D.</i>		Defendant.	

Whereas the above-mentioned actions have been brought in this Court by the said *A.B.* and *E.F.* against me : And whereas the causes of action in the said actions arise out of the same alleged breach of contract [*or* wrong *or* breach of duty] :

Now, therefore, I undertake to be bound, so far as my liability in the said actions is concerned, by the judgment of the Court in either of the said actions which may be selected by the Judge.

*C.D.*,  
Defendant.

61. [118.]

## ORDER TO STAY PROCEEDINGS.

[*Not to be printed.*][*Heading as in Form 60.*]Order VIII.,  
Rules 2, 4.

Whereas the above actions have been commenced in this Court against the said *C.D.* for or in respect of causes of action arising out of the same alleged breach of contract [*or wrong or breach of duty*] :

And whereas the said *C.D.* has filed an undertaking to be bound, so far as his liability to the Plaintiffs, *A.B.* and *E.F.*, in the said actions is concerned, by the decision of the Court in one of such actions :

I do therefore order that all proceedings in the second-mentioned action be stayed until judgment shall have been given in the first-mentioned action.

[And I do further order that the costs of this application and of the order consequent thereon be costs in the first-mentioned action and abide the event thereof.]

And I do further order that this order shall be drawn up and served on the said *A.B.* and *E.F.*

Dated this                      day of                      19                      .

Judge.

ORDER VIII ,  
Rules 5, 6.

62. [New.]

## NOTICE TO OTHER PLAINTIFFS OF JUDGMENT IN SELECTED ACTION.

[*Heading as in Form 60.*]

Whereas by order dated the                      day of                      it was ordered that all proceedings in the above-mentioned action of *E.F.*                      v. *C.D.*                      should be stayed until judgment should have been given in the above-mentioned action of *A.B.*                      v. *C.D.*                      :

Now I hereby give you notice that on the                      day of                      judgment was given in the said action of *A.B.*                      v. *C.D.*                      in favour of the defendant.

And I further give you notice that the said defendant will be entitled to his costs of the above-mentioned action of *E.F.*                      v. *C.D.*                      up to the date of the said order of the                      day of                      unless you, the said *E.F.*                      shall on or before the                      day of                      [*one month from date of judgment in selected action*] give to me or send to my office written notice to set down your action of *E.F.*                      v. *C.D.*                      for hearing.

[Or, if judgment in selected action was given for plaintiff, proceed as follows:—

Now I hereby give you notice that on the \_\_\_\_\_ day of \_\_\_\_\_ judgment was given in the said action of *A.B.* v. *C.D.* in favour of the plaintiff.

And I further give you notice that you will be at liberty to proceed with your action of *E.F.* v. *C.D.* for the purpose of ascertaining and recovering your debt [*or damages*] and costs, and that if you desire so to proceed you must, on or before the \_\_\_\_\_ day of \_\_\_\_\_ [*one month from date of judgment in selected action*], give to me or send to my office written notice to set down your action of *E.F.* v. *C.D.* for hearing.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Registrar.

To the above-named plaintiff *E.F.*

---

63.

#### NOTICE OF DISCONTINUANCE OF ACTION.

[*Not to be printed.*]

Take notice, that I shall not proceed further in this action, and that I hereby withdraw from the same. Order IX.,  
Rule 1.

Dated this \_\_\_\_\_ day of \_\_\_\_\_.

Plaintiff.

To the Registrar and to the Defendant (*naming him*).

---

64. [New.]

#### ORDER FOR COSTS AGAINST PLAINTIFF ON DISCONTINUANCE.

On the application of the Defendant, it is ordered that the Defendant do recover against the Plaintiff the sum of £ \_\_\_\_\_ for costs incurred before the receipt by him of notice of discontinuance of this action, and for the costs of attending the Court to obtain this order. And it is ordered that the Plaintiff do pay the said sum of £ \_\_\_\_\_ to the Registrar of this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

[*To be altered as required, if order made for payment of costs to be taxed.*]

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## 65. [39.]

ADMISSION OF CLAIM OR PART OF CLAIM UNDER SECTION 98 OF THE  
COUNTY COURTS ACT, 1888.

51 & 52 Vict.  
c. 43. s. 98.  
Order IX,  
Rule 2.

I, the Defendant, do hereby confess and admit that the sum of £ ,  
the amount claimed [or the sum of £ , being part of the amount  
claimed] by the Plaintiff in this action, is due to him from me [and that I will  
pay the same by instalments of ].

Dated this                      day of                      19                      .

Signed in the presence of

*This paper marked A. is the statement referred to in the annexed Affidavit.*

## 66. [40.]

51 & 52 Vict.  
c. 43. s. 98.  
Order IX.,  
Rule 9.

AFFIDAVIT OF SIGNATURE TO ADMISSION UNDER SECTION 98 OF THE  
COUNTY COURTS ACT, 1888.

[Not to be printed.]

I,    of    gentleman, solicitor of  
His Majesty's Supreme Court of Judicature, make oath and say, that I was  
present on the                      day of                      one thousand nine hundred  
and                      , and did see the above-named Defendant sign the  
statement hereunto annexed, marked with the letter A., and that the name set  
to the said statement is in the handwriting of the Defendant, and that the  
name set to the said statement as that of the witness attesting the same is in  
my handwriting.

## 67. [41.]

51 & 52 Vict.  
c. 43. s. 98.

NOTICE TO PLAINTIFF OF ADMISSION OF CLAIM UNDER SECTION 98 OF  
THE COUNTY COURTS ACT, 1888.

I hereby give you notice, that the Defendant has filed a statement  
confessing and admitting the amount claimed by you [and proposing to pay  
the same by instalments of                      ], and that it will not be necessary  
for you to attend on the day of hearing [unless you object to receive the same  
by instalments as proposed]; but judgment will not be entered unless you  
pay to the Registrar on or before such day the sum of                      ,  
being the fee for the judgment, or remit the said sum to the Registrar by  
post office order or otherwise.

## 68. [42.]

NOTICE TO PLAINTIFF OF ADMISSION OF PART OF CLAIM UNDER  
SECTION 98 OF THE COUNTY COURTS ACT, 1888.51 & 52 Vict.  
c. 43. s. 98.

I hereby give you notice, that the Defendant has filed a statement confessing and admitting £ , part of the amount claimed by you [and proposing to pay the same by instalments of ].

If you consent to accept the amount so admitted [and consent to the mode of payment by instalments as proposed], it will not be necessary for you to attend on the day of hearing ; but judgment will not be entered unless you pay to the Registrar on or before such day the sum of , being the fee for the judgment, or remit the said sum to the Registrar by post office order or otherwise.

If, however, you do not consent to accept the sum so admitted in satisfaction of your claim, you must be prepared to prove the same.

## 69. [43.]

## CONSENT UNDER SECTION 99 OF THE COUNTY COURTS ACT, 1888.

51 & 52 Vict.  
c. 43. s. 99

We, the Plaintiff and Defendant, hereby agree that the amount of the debt or demand due from the Defendant to the Plaintiff is £ , and that the same, with £ for the Plaintiff's costs, and £ the Court fees, amounting together to the sum of £ , shall be paid to the Registrar of the Court at his office, in manner following viz. :

Order IX.,  
Rule 4.

Dated this                      day of                      19                      .

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ } Signatures of Plaintiff  
and Defendant.

Signed in the presence of

*This paper marked A. is the statement referred to in the annexed Affidavit.*

## 70. [44.]

AFFIDAVIT OF SIGNATURE TO CONSENT UNDER SECTION 99 OF THE  
COUNTY COURTS ACT, 1888.51 & 52 Vict.  
c. 43. s. 99.

[Not to be printed.]

I,                      of                      , gentleman, solicitor of His Majesty's Supreme Court of Judicature, make oath and say, that I was present on the                      day                      one thousand nine hundred and                      , and did see the Plaintiff and Defendant respectively sign

Order IX.  
Rule 9.

the statement hereunto annexed, marked with the letter A., and that the name \_\_\_\_\_ set to the said statement is in the handwriting of the Plaintiff, and that the name \_\_\_\_\_ set to the said statement is in the handwriting of the Defendant, and that the name \_\_\_\_\_ set to the said statement as that of the witness attesting the same is in my handwriting.

---

71. [45.]

DEFENDANT'S ADMISSION.

[*Not to be printed.*]

Order IX.  
Rule 5.

I, the undersigned Defendant, admit the truth of the allegations in the  
plaint, and hereby submit to the judgment of the Court thereon.

(Signed) C.D., Defendant.

Signed in the presence of

*This paper marked A. is the statement referred to in the annexed Affidavit.*

---

72. [46.]

AFFIDAVIT OF SIGNATURE TO DEFENDANT'S ADMISSION.

[*Not to be printed.*]

Order IX.,  
Rules 5, 9.

I, \_\_\_\_\_ of \_\_\_\_\_, gentleman, a solicitor of  
His Majesty's Supreme Court of Judicature, make oath and say, that I was  
present on the \_\_\_\_\_ day of \_\_\_\_\_ one thousand nine  
hundred and \_\_\_\_\_, and did see the above-named Defendant sign  
the statement hereunto annexed, marked with the letter A., and that the name  
set to the said statement is in the handwriting of the Defendant, and that the  
name set to the said statement as that of the witness attesting the same is in  
my handwriting.

---

73. [102.]

NOTICE OF PAYMENT INTO COURT OF WHOLE CLAIM.

Order IX.,  
Rule 12 (2).  
Order XXVI.,  
Rule 5 (2.)

Take notice, that the Defendant [*or Garnishee*] has paid into court the full  
amount of your demand in this action, together with your costs therein.

[*N.B.--Upon your applying for the above amount, it will be necessary  
that you should produce the plaint-note given to you on the entry of the  
plaint.*]



## 74. [103.]

## NOTICE OF PAYMENT INTO COURT OF PART OF CLAIM.

Take notice, that the Defendant [*or Garnishee*] has this day paid into Court the sum of £            in respect of your demand in this action [and the sum of £            in respect of fees and costs [*or on tender.*]] If you elect to accept the same in full satisfaction of the sum claimed, and the costs you have incurred, and send to the Registrar of this Court and to the Defendant a written notice forthwith, by post, or by leaving the same at the Registrar's office and at the Defendant's place of abode or business, the action will be discontinued, and you will be liable to no further costs. In default of such notice [the said sum will be retained and (<sup>1</sup>)] the action will be proceeded with. If you do not appear at the hearing, you will be liable to pay to the Defendant such costs as he may incur for appearing at the hearing, or such other sum of money as the Judge may order, for expenses subsequent to the payment into Court.

Order IX.,  
Rule 12 (2).  
Order XXVI.,  
Rule 5 (2).

(1) These words must be inserted ONLY where the Defendant denies liability or relies on the defence of tender.

Dated this            day of            19           

Registrar.

To the Plaintiff.

[N.B.—*Upon your applying for the above amount, it will be necessary that you should produce the plaint-note given to you on the entry of the plaint.*]

## 75. [104A.]

## NOTICE OF PAYMENT INTO COURT WITH DENIAL OF LIABILITY.

[*Not to be printed.*]

Take notice, that the above-named Defendant [*or C.D.*, one of the above-named Defendants] has paid into Court the sum of £            in satisfaction of the whole of the Plaintiff's claim herein [*or of so much of the Plaintiff's claim as relates to (here describe the part of the claim or cause of action in respect of which the payment is made).*].

Order IX.,  
Rule 12 (1,2)

And further take notice, that notwithstanding such payment the Defendant denies his liability.

And further take notice, that the address of the said Defendant is as follows (*state the address*).

Dated, &c.

*C.D.*

the above-named Defendant [*or E.F.*, solicitor for the above-named Defendant].

To the Registrar of the Court and to  
*A.B.*, the above-named Plaintiff.

NOTE.—A sealed copy of this notice must be sent to the Plaintiff with Form 74 when the Defendant denies liability.

## 76. [104 (1), May, 1899.]

## NOTICE OF ACCEPTANCE OF SUM PAID INTO COURT OR TO PLAINTIFF.

*[Not to be printed.]*

Order IX.,  
Rules 13 (1, 4),  
20 (1, 4);  
Order XXVI.,  
Rule 5 (3).  
To be added  
where plain-  
tiff intends  
to apply for  
costs.

Take notice, that the Plaintiff accepts the sum of £                      paid by the Defendant [*or* Garnishee] into Court [*or* to the Plaintiff] in satisfaction of the claim in respect of which it is paid in.

But the Plaintiff will apply to the Judge on                      the day of                      , at                      o'clock in the                      noon, for an order directing the Defendant [*or* Garnishee] to pay the fees and costs properly incurred by the Plaintiff before the receipt of notice of payment into Court [*or* before the receipt of the said sum of £                      ], and in attending the Court to obtain such order.

Dated this                      day of                      19                      .

Plaintiff.

To the Registrar of the Court  
and  
To the Defendant [*or* Garnishee].

## 77. [36.]

## ORDER AGAINST DEFENDANT OR GARNISHEE PAYING MONEY INTO COURT OR TO PLAINTIFF FOR PAYMENT OF FURTHER COSTS.

Order IX.,  
Rules 13 (3),  
20 (3);  
Order XXVI.,  
Rule 5 (5).

On the application of the Plaintiff, it is ordered that the Plaintiff do recover against the Defendant [*or* Garnishee] the sum of £                      for costs incurred by the Plaintiff for work done before the receipt of notice of payment into Court herein [*or* before payment of the Plaintiff's demand herein by the Defendant to the Plaintiff] and for the costs of attending the Court to obtain this order.

And it is ordered that the Defendant [*or* Garnishee] do pay the same to the Registrar of this Court on the                      day of                      , 19                      .

*[To be altered as required, if order made for payment of costs to be taxed.]*

## 78. [101.]

## NOTICE OF OBJECTION TO TRIAL OF COUNTER-CLAIM, UNDER THE SUPREME COURT OF JUDICATURE ACT 1884, SECTION 18.

*[Not to be printed.]*

47 & 48 Vict.  
c. 61. s. 18.  
Order X.,  
Rule 3.

Take notice, that the Plaintiff objects to the Court giving any relief upon the counter-claim raised in this action exceeding that which the Court would have jurisdiction to give independently of section eighteen of the Supreme Court of Judicature Act, 1884.

And further take notice, that the Plaintiff will, on the day appointed for the trial of this action, apply to the Judge to adjudicate upon the original claim herein.

Plaintiff.

To the Registrar of the Court  
and  
To the Defendant.

## 79. [99.]

NOTICE OF OBJECTION TO TRIAL OF ACTION UNDER SECTION 62 OF  
THE COUNTY COURTS ACT, 1888.

[*Not to be printed.*]

Take notice, that under the provisions of section 62 of the County Courts Act, 1888, I object to this action being tried in the County Court; and I propose as my sureties [*here state the full names and additions of the sureties whether householders or freeholders, and their residences for the last six months therein mentioning the county or city, places, streets, and numbers, if any*] [*or*, and I propose to deposit a sum of money in lieu of giving security].

51 & 52 Vict.  
c. 43, s. 62.  
Order X.,  
Rule 6.

Defendant.

To the Registrar of the Court.

## 80. [99A.]

AFFIDAVIT TO OBTAIN CERTIFICATE OF JUDGE UNDER SECTION 62 OF  
THE COUNTY COURTS ACT, 1888.

51 & 52 Vict.  
c. 43, s. 62.  
Order X.,  
Rule 6.

[*Not to be printed.*]

I, *C.D.*, of  
[*or E.F.*, of  
the above-named Defendant make oath and say :

solicitor for]

1. This action is brought for [*here state the cause of action*].
2. In my opinion important questions of law [*or fact, or law and fact*] will arise in this action.
3. The important questions are the following : [*here state the important questions*].
- [4. The facts which are likely to raise the questions of law above-mentioned are as follows : [*here state the facts relied on*].]

Add when a  
question of  
law will  
arise.

## 81. [99B.]

NOTICE TO PLAINTIFF OF GRANT OF CERTIFICATE BY JUDGE.

Take notice, that the Judge has granted his certificate that important questions of law [*or fact, or law and fact*] are likely to arise in this action, and that pursuant to section 62 of the County Courts Act, 1888, all proceedings in this Court in this action are stayed.

Order X.,  
Rule 6.

51 & 52 Vict.  
c. 43, s. 62.

Dated this                      day of                      19

Registrar.

To the Plaintiff

BOND WHERE NOTICE OF OBJECTION TO TRIAL GIVEN UNDER SECTION 62  
OF THE COUNTY COURTS ACT, 1888.

[*Not to be printed.*]

Order X.,  
Rule 6.

A sum  
sufficient to  
cover the  
amount  
claimed, and  
costs of trial  
in High  
Court, not  
exceeding in  
the whole  
150*l.*

*For Notice of  
Sureties and  
Affidavit of  
Justification,  
see forms 235  
and 236.*

Know all men by these presents, that we, *A.B.*, of, &c., and *C.D.*, of, &c., and *E.F.*, of, &c., are jointly and severally held and firmly bound to *G.H.*, of, &c., in the sum of £                      to be paid to the said *G.H.*, or his certain attorney, executors, administrators, or assigns. For which payment to be well and truly made we bind ourselves jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated this                      day of                      one  
thousand nine hundred and                      .

Whereas an action                      has been brought in the County Court  
of                      holden at                      wherein the above-mentioned *G.H.* is  
Plaintiff, and the above-bounden *A.B.* is Defendant :

And whereas the said *A.B.* has given due notice to the said *G.H.* of his, the said *A.B.*'s, objection to the said action being tried in the said Court, as provided by section 62 of the County Courts Act, 1888 :

And whereas it is by the same section of the said Act provided that the party who shall object shall give security, to be approved by the Registrar of the Court aforesaid, for the amount claimed, and the costs of trial in the High Court of Justice :

I approve of  
this bond

*I.K.*  
(*L.S.*)  
Registrar.  
*This bond  
requires a  
stamp.*

And whereas the said *A.B.* and the above bounden *C.D.* and *E.F.* as sureties for the said *A.B.*, have agreed to give such security by entering into the above-written bond obligation, and the security intended to be hereby given has been approved of by                      the Registrar of the said County Court, as appears by his allowance in the margin hereof: Now the condition of the above-written bond is such that if the above-bounden *A.B.*, *C.D.*, and *E.F.*, any or either of them, shall pay unto the said *G.H.*, his executors, administrators, or assigns, the amount for which judgment may be given against the said *A.B.*, in the High Court of Justice, and all costs which he may be ordered by that Court to pay, then this obligation shall be void and of no effect, otherwise the same shall remain in full force and virtue.

*A.B.*                      (*L.S.*)

*C.D.*                      (*L.S.*)

*E.F.*                      (*L.S.*)

Signed, sealed, and delivered by the above-bounden  
presence of                      .

in the

**NOTE.**—*If a deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond, and will not require a stamp.*

83. [98.]

## DEFENDANT'S STATEMENT.

[*Not to be printed.*]

I, the undersigned Defendant *C.D.*, disclaim all interest under the will of *E.F.*, deceased, named in the Plaintiff's particulars [*or as heir-at-law of, or as next of kin, or one of the next of kin of E.F.*, deceased, named in the Plaintiff's particulars].

Order X.  
Rule 9.

*Or*, I, the undersigned Defendant, state that I admit [*or deny*] [*here repeat in the language of the particulars the statements admitted or denied*].

*Or*, I, the undersigned Defendant, submit that upon the facts stated in the Plaintiff's particulars it does not appear that there is any agreement which can be legally enforced [*or that it appears upon the Plaintiff's particulars that I am jointly liable with one E.F.*, who is not a party to this action, and not severally liable as by the particulars appear, *or that it appears by the Plaintiff's particulars that G.H.* should have been a joint Plaintiff with the said *A.B.* in this action, *or as the case may be*].

*Or*, that the Plaintiff has conveyed [*or assigned*] his interest in the mortgage [*or equity of redemption*] mentioned in the Plaintiff's particulars to one *I.J.*, *or that I have conveyed or assigned to H.L.*, by way of further charge for securing the sum of £ , the equity of redemption in the property sought by this action to be fore-closed.

*Or*, that since the dissolution of the partnership mentioned in the Plaintiff's particulars the Plaintiff has executed a deed under seal, whereby the Plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership trading [*or as the case may be*].

(Signed) *C.D.*, Defendant.*Where filed by solicitor, add—*

This statement was filed by , of , Solicitor for the Defendant.

84. [94.]

## NOTICE OF SET-OFF OR COUNTER-CLAIM.

Take notice, that the Defendant intends at the hearing of this action to claim a set-off [*or to set up a counter-claim*] against the Plaintiff's demand the particulars of which are annexed hereto.

51 & 52 Vict.  
c. 43. s. 82.  
Order X,  
Rules 10, 11.

Dated this day 19 .

Defendant [*or's Solicitor*].

To the Registrar of the Court,  
and to the Plaintiff.

(*The Registrar is to annex to this notice the particulars of set-off or counter-claim, as furnished by Defendant, sealed with the seal of the Court.*)

85. [95.]

## NOTICE OF SPECIAL DEFENCE

51 & 52 Vict  
c. 43. s. 82.

Take notice, that the Defendant intends at the hearing of this action to give in evidence and rely upon the following ground of defence.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_  
Defendant [*or* 's Solicitor].

To the Registrar of the Court,  
and to the Plaintiff.

[*These paragraphs not to be printed*].

Infancy.  
Order X.,  
Rule 12.

That the Defendant was an infant, within the age of twenty-one years, when the supposed claim arose, [*or* the supposed contract or agreement was made,] and that he was born, as he believes, at \_\_\_\_\_ in the county of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_.

Coverture.  
Order X.,  
Rule 13.

That the Defendant is now [*or* was, at the time when the supposed claim arose, *or* the supposed contract or agreement was made,] the wife of \_\_\_\_\_ of \_\_\_\_\_; and that she was married to him at \_\_\_\_\_ in the county of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, and that he resides at \_\_\_\_\_ in the county of \_\_\_\_\_.

Statute of  
Limitations.  
Order X.,  
Rule 14.

That the claim for which the Defendant is summoned is barred by a Statute of Limitations. [95A., April, 1895.]

Bankruptcy.  
Order X.,  
Rule 15.

That the Defendant is a discharged bankrupt, and obtained his order of discharge from the [*here state Court*] on the \_\_\_\_\_ day of \_\_\_\_\_.

Libel or  
Slander.  
Order X.,  
Rule 16.

That the libel [*or* slander] complained of is true in substance and in fact.

Statutory  
Defence.  
Order X.,  
Rule 18.  
Equitable  
Defence.  
Order X.,  
Rule 19.

That section four of the Sale of Goods Act, 1893, has not been complied with.

Take notice, that the Defendant intends at the hearing of this action to rely as a matter of defence on the statement hereunto annexed.

*Statement.*

The facts constituting the equitable defence to this action are as follows :

[*Here set out the facts as concisely as possible, and number the paragraphs as in an affidavit.*]

Tender,  
Order X.,  
Rule 20.

That the Defendant before action brought tendered to the Plaintiff the sum of £ \_\_\_\_\_, and now brings the same into Court.

NOTE.—*Notices of Special Defence, in cases commenced in the High Court and sent to the County Court for trial under sections 65 or 66 of the County Courts Act, 1888, must have, in addition to the usual headings, the special headings provided for those cases.*

## 86. [96.]

NOTICE TO BE GIVEN BY DEFENDANT UNDER THE LIBEL ACT, 1843,  
6 & 7 VICT. c. 96. s. 1. IN AN ACTION FOR LIBEL OR SLANDER  
REMITTED FOR TRIAL IN A COUNTY COURT

[*Not to be printed.*]

Being an action for libel [*or slander*] commenced in the High Court of Justice, and remitted by order of a Judge [*or Master or District Registrar*] thereof under section 66 of the County Courts Act, 1888, to be tried before this Court.

51 & 52 Vict.  
c. 43. s. 66.  
Order X.,  
Rule 17.  
Order  
XXXIII.,  
Rule 4.

Take notice, that the Defendant on the trial of this action will give in evidence in mitigation of damages that he made [*or offered*] an apology to the Plaintiff for the libel [*or slander*] complained of before the commencement of the action [*or as soon after the commencement of the action as he had an opportunity of so doing*].

To the Registrar of the Court,  
and to the Plaintiff.

## 87. [97.]

NOTICE TO BE GIVEN BY DEFENDANT UNDER THE LIBEL ACT, 1843,  
6 & 7 VICT. c. 96. s. 2. IN AN ACTION FOR LIBEL REMITTED FOR TRIAL  
IN A COUNTY COURT.

[*Not to be printed.*]

Being an action for libel commenced in the High Court of Justice, and remitted by order of a Judge [*or Master or District Registrar*] thereof under section 66 of the County Courts Act, 1888, to be tried before this Court.

51 & 52 Vict.  
c. 43. s. 66.  
Order IX.,  
Rule 14.  
Order X.,  
Rule 17.  
Order  
XXXIII.,  
Rule 4.

Take notice, that the Defendant on the trial of this action will give in evidence and rely upon the following ground of defence ; (that is to say,)

That the libel was inserted in the newspaper called or known by the name of \_\_\_\_\_ without actual malice and without gross negligence, and that before the commencement of the action [*or as soon after the commencement of the action as he had an opportunity of doing so*] the Defendant inserted in the said newspaper [*or offered to publish in any newspaper or periodical publication to be selected by the Plaintiff*] a full apology for the said libel, and that the Defendant has paid into Court £ \_\_\_\_\_ by way of amends for the injury sustained by the Plaintiff by the publication of the said libel.

Dated this

day of

19 .

C.D., Defendant.

or

To the Registrar of the Court,  
and to the Plaintiff.

E.F., Defendant's Solicitor

[*N.B.—If the libel was published in any periodical publication other than a newspaper, alter the notice accordingly.*]

88. [105A., Feb., 1892.]

### NOTICE BY DEFENDANT TO THIRD PARTY.

[Not to be printed.]

To *XY.*, of [*address and description.*]

Order XI.,  
Rule I.

Take notice, that this action has been brought by the Plaintiff against the Defendant [as surety for M.N., upon a bond conditioned for payment of 20l. and interest to the Plaintiff.

*The Defendant claims to be entitled to contribution from you to the extent of one half of any sum which the Plaintiff may recover against him, on the ground that you are his co-surety under the said bond [or, also surety for the said M.N.; in respect of the said matter, under another bond made by you in favour of the said Plaintiff, dated the                      day of                      19    .]*

[Or, as acceptor of a bill of exchange for 50L., dated the \_\_\_\_\_ day  
of \_\_\_\_\_ 19\_\_\_\_, drawn by you upon and accepted by the  
Defendant, and payable three months after date.

*The Defendant claims to be indemnified by you against liability under the said bill on the ground that it was accepted for your accommodation.]*

[Or, to recover damages for a breach of contract for the sale and delivery to the Plaintiff of 100 tons of coal.

*The Defendant claims to be indemnified by you against liability in respect of the said contract, or any breach thereof, on the ground that it was made by him on your behalf and as your agent.]*

And take notice, that if you wish to dispute the Plaintiff's claim in this action as against the Defendant, or your liability to the Defendant, you must appear at this Court on the return day of the summons in this action, a copy of which summons [*where the original action is commenced by default summons, add with a copy of the notice of the day on which the action will be tried*] is hereunto annexed.

In default of your so appearing you will be deemed to admit the validity of any judgment obtained against the Defendant in this action, whether obtained by consent or otherwise, and your own liability to contribute or indemnify to the extent herein claimed.

(Signed) *C.D.*

Defendant.

[ *or LM.*

Solicitor for the Defendant  
C.D.]



## 89. [106.]

NOTICE TO DEFENDANT OF NON-SUFFICIENCY OF AFFIDAVIT UNDER  
ORDER XII., RULE 9.

Take notice, that the affidavit filed by you does not disclose a good defence to this action on the merits thereof, and you must therefore attend the Court in pursuance of your summons [*or where the affidavit has accompanied the notice of defence required by a default summons*, upon the day mentioned in the notice sent herewith].

Order XII.,  
Rule 9.

## 90. [107.]

NOTICE TO PLAINTIFF TO DEPOSIT SUM IN COURT UNDER ORDER XII.,  
RULE 9.

Take notice, that the above-named Defendant (whose residence or place of business is more than twenty miles distant from this Court) having filed with me an affidavit disclosing a good defence to this action upon the merits, you are required within two days from the date hereof to deposit in Court the sum of £ , to abide the event of this action. And also take notice, that in default of your making such deposit as directed the action will be struck out.

Order XII.,  
Rule 9.

## 91. [108.]

NOTICE TO DEFENDANT OF DEPOSIT UNDER ORDER XII., RULE 9, HAVING  
BEEN MADE, OR NOT HAVING BEEN MADE.

Take notice, that the Plaintiff has this day deposited with me the sum of £ , to abide the event of this action.

Order XII.,  
Rule 9.

*Or*, Take notice that the Plaintiff has not deposited with me any sum of money to abide the event of this action. The action will be struck out, and you need not attend the Court in pursuance of your summons.

## 92. [143.]

## ORDER TO ADJOURN PROCEEDINGS.

It is ordered that the trial of this action be adjourned until                      the                      Order XII.,  
day of                      19 , at                      o'clock in the                      noon.                      Rules 12-15.

## 93. [144.]

## NOTICE OF POSTPONEMENT OF TRIAL.

I hereby give you notice that the trial of the above action is postponed until                      the                      day of                      , 19 , at                      o'clock in                      Order XII.,  
the                      noon, and that if you do not attend at the court-house at                      upon                      Rule 14.  
the day and at the hour above-mentioned, either in person or by your solicitor, such order will be made and proceedings taken as the Judge may think fit.

Dated this                      day of                      , 19 .

Registrar.

To the Plaintiff and Defendant.

## 93A. [New.]

ORDER FOR ADJOURNMENT WHERE COURT IS IN DOUBT WHETHER SERVICE  
OF SUMMONS HAS COME TO KNOWLEDGE OF DEFENDANT.Order VII.,  
Rule 11.

Whereas the Court is in doubt, on the evidence before it, whether the service of the summons in this action has come to the knowledge of the Defendant :

It is ordered that this action be adjourned for further evidence until  
the day of 19 ,  
at o'clock in the noon :

[*Add, if so ordered*—And it is further ordered that a copy of this order, with a copy of the summons and particulars in this action, be served on the Defendant by the High Bailiff by post, in accordance with the provisions of Order LIV., Rule 2, of the County Court Rules.]

Dated this day of 19 .

Registrar.

## 94. [New.]

## ORDER ADDING DEFENDANT.

Order XIV.  
Rules 2, 11.

It is ordered that *E.F.* of be added as a Defendant in this action, and that the hearing of this action be adjourned to the day of 19 , at o'clock in the noon.

Dated this day of 19 .

Registrar.

## 95. [109.]

## NOTICE TO PARTIES WHOSE NAMES ARE ADDED AS DEFENDANTS.

Order XIV.,  
Rules 2, 11.

Take notice, that by an order of this Court, dated the day of , a copy of which order is hereunto annexed, together with a copy of the summons in the above action, you were ordered to be added as one the Defendants in the above action.

And further take notice, that the hearing of the above action has been adjourned to the day of at o'clock in the noon, and that if you do not attend at the court house at upon the day and at the hour above-mentioned, either in person or by your solicitor, such order will be made and proceedings taken as the Judge may think fit.

## 96. [New.]

ORDER FOR DEFENDANT TO DEFEND ON BEHALF OF OTHERS HAVING THE  
SAME INTEREST.Order III.  
Rule 8.

Upon reading the affidavit of , It is ordered that the Defendant *C.D.* be at liberty to defend this action on behalf or for the benefit of the following persons, as well as on his own behalf ; that is to say,

[*State names, addresses, and occupations.*]

Dated this day of 19 .

Judge [*or Registrar*].

97. [111.]

**NOTICE TO PLAINTIFF THAT DEFENDANT DEFENDS ON BEHALF OF OTHERS.**

Take notice, that the above-named Defendant has obtained an order for leave to defend the above action on behalf of or for the benefit of [*state names of persons as in order*], as well as on his own behalf. You may, if you think fit, object at the trial to the Defendant defending on behalf of all or any of such persons. The affidavit on which the above-mentioned order was made is filed at my office, and may be inspected by you.

**Order 111,  
Rule 8.**

Dated this                      day of                      19                      .

Registrar.

To the above-named Plaintiff.

98. [New.]

NOTICE TO PERSONS ON WHOSE BEHALF DEFENDANT HAS OBTAINED  
LEAVE TO DEFEND.

Take notice, that the above-named Defendant has obtained an order, a copy whereof, with a copy of the summons in the above action, is served herewith, for leave to defend the above action on your behalf or for your benefit as well as on his own behalf. You may, if you think fit, object at the trial to the Defendant defending on your behalf. The affidavit on which the above-mentioned order was made is filed at my office, and may be inspected by you.

**Order II.,  
Rule 8.**

Dated this                      day of                      19                      .

Registrar.

To \_\_\_\_\_, of \_\_\_\_\_,

99. [78.]

## NOTICE OF APPLICATION FOR DIRECTIONS.

*[Not to be printed.]*

Take notice, that I intend to apply to the Judge [or Registrar] of this Court, on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, for an order for [further] directions.

Order XV.,  
Rule 2.

[Here state all matters or proceedings previous to trial on which directions are required.]

To \_\_\_\_\_ Signature of Applicant.

## 100. [79.]

### ORDER FOR DIRECTIONS.

Upon hearing the application of  
as follows :—That

it is ordered

Order XV.,  
Rule 1.

[Here insert the directions ordered, and that either party may apply for further directions upon giving fresh notice.]

## 101. [80.]

## NOTICE OF DAY OF TRIAL UNDER ORDER XV.

Order XV.,  
Rule 6.

Take notice, that the trial of this action will take place on  
 the                      day of                      19                      , at                      o'clock in the  
                                 noon.  
 To

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## 102. [83A., April, 1895.]

## ORDER FOR DELIVERY OF INTERROGATORIES.

Order XVI.,  
Rule 2.

Upon hearing  
 It is ordered that the                      be at liberty within                      days from the  
 date of this order to deliver to the                      interrogatories in  
 writing, and that the said                      do answer the interrogatories in writing  
 by affidavit, and return such answers to me for filing on or before the  
 and that the costs of this application be  
 Dated this                      day of                      19                      .

Registrar.

## 103. [84.]

## INTERROGATORIES.

[*Not to be printed.*]Order XVI.,  
Rule 5.

Interrogatories on behalf of the above-named [Plaintiff, or Defendant  
*C.D.*] for the examination of the above-named [Defendants *E.F.* and *G.H.* or  
 Plaintiff].

1. Did not, &amp;c.

2. Has not, &amp;c.

&amp;c.                      &amp;c.                      &amp;c.

[*The Defendant E.F. is required to answer the interrogatories numbered*  
*.]*

[*The Defendant G.H. is required to answer the interrogatories numbered*  
*.]*

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## 104. [85.]

## ANSWER TO INTERROGATORIES.

[*Not to be printed.*]Order XVI.,  
Rule 8.

The answer of the above-named Defendant *E.F.* to the interrogatories of  
 his examination by the above-named Plaintiff.

In answer to the said interrogatories, I, the above-named *E.F.*, make oath  
 and say as follows :—

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## 105. [86.]

ORDER FOR ORAL EXAMINATION FOR INSUFFICIENT ANSWER TO  
INTERROGATORIES.Order XVI.,  
Rule 9.

Upon hearing

It is ordered that the Plaintiff [*or* Defendant] do attend before the Registrar of this Court at \_\_\_\_\_ on \_\_\_\_\_ the day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, to be by him orally examined as to the points mentioned in the paper writing hereunto annexed, the Plaintiff's [*or* Defendant's] answers to the interrogatories delivered to him in this action being insufficient in such points.

And it is further ordered that the costs of the examination and of the proceedings herein, to be taxed by the registrar, shall be paid by [*or* shall abide the event, *or as otherwise ordered.*]

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

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## 106. [81.]

## ORDER FOR AFFIDAVIT AS TO DOCUMENTS.

Order XVI.,  
Rule 10.

Upon hearing

It is ordered that the \_\_\_\_\_ do, within \_\_\_\_\_ day from the date of this order, answer on affidavit stating what documents are or have been in \_\_\_\_\_ possession or power relating to the matters in question in this action, and that the costs of this application be \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

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## 107. [82.]

## AFFIDAVIT AS TO DOCUMENTS.

[*Not to be printed.*]Order XVI.,  
Rule 11.

1, the above named Defendant, *C.D.*, make oath and say as follows :—

1. I have in my possession or power the documents relating to the matters in question in this action set forth in the first and second parts of the first schedule hereto.

2. I object to produce the said documents set forth in the second part of the said first schedule hereto.

3. That [*here state upon what grounds the objection is made and verify the facts as far as may be.*]

4. I have had, but have not now, in my possession or power the documents relating to the matters in question in this action set forth in the second schedule hereto.

5. The last-mentioned documents were last in my possession or power on [*state when*].

6. That [*here state what has become of the last-mentioned documents, and in whose possession they now are*].

### ORDER TO PRODUCE DOCUMENTS FOR INSPECTION.

Upon hearing

It is ordered that the \_\_\_\_\_ do, at all seasonable times, on reasonable notice, produce at [*insert place of inspection*], situate at \_\_\_\_\_ the following documents, namely \_\_\_\_\_, and that the \_\_\_\_\_ be at liberty to inspect and peruse the documents so produced, and to take copies and abstracts thereof and abstracts therefrom, at \_\_\_\_\_ expense, and that in the meantime all further proceedings be stayed, and that the costs of this application be \_\_\_\_\_

Dated this                      day of                      19 .

NOTICE TO PRODUCE DOCUMENTS FOR INSPECTION.

[ *Not to be printed.* ]

Take notice, that the Plaintiff [*or Defendant*] requires you to produce for his inspection the following documents referred to in your [*particulars of claim, or of defence, or affidavit dated the                  day of* ].

*(Describe documents required.)*

Description of Document.	Dates.
Deed of covenant between <i>A.B.</i> of the first part, and <i>C.D.</i> of the second part.	January 1, 1898.
Letter—Defendant to Plaintiff      ...      ...      ...      ...      ..      ...	March 1, 1901.

## COPIES.

Description of Document.	Dates.	Original or Duplicate served, sent, or delivered, when, how, and by whom.
Register of baptism of <i>A.B.</i> in the parish of <i>X</i> .	January 1, 1878.	—
Letter—Plaintiff to Defendant ...	February 1, 1901 ...	Sent by General Post, Feb. 1st, 1901.

## 112. [91.]

## NOTICE TO PRODUCE (GENERAL FORM).

[*Not to be printed.*]Order XVIII.,  
Rule 7.

Take notice, that you are hereby required to produce and show to the Court on the trial of this action all books, papers, letters, copies of letters, and other writings and documents in your custody, possession, or power, containing any entry, memorandum, or minute relating to the matters in question in this , and particularly [*specify them*].

Dated this            day of            19 .

(Signed)

of

Solicitor for the above-named

To the above-named

## 113. [92.]

## NOTICE TO ADMIT FACTS.

[*Not to be printed.*]Order IX.,  
Rule 8.

Take notice, that the Plaintiff [*or Defendant*] in this action requires the Defendant [*or Plaintiff*] to admit, for the purposes of this action only, the several facts respectively hereunder specified ; and the Defendant [*or Plaintiff*] is hereby required, not later than three clear days before the return day, to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this action.

Dated, &amp;c.

*G.D.*, Solicitor for the Plaintiff [*or Defendant*].To *E.F.* Solicitor for the Defendant [*or Plaintiff*].

The facts, the admission of which is required, are—

1. That John Smith died on the 1st of January, 1890.
2. That he died intestate.
3. That James Smith was his only lawful son.
4. That Julius Smith died on the 1st of April, 1896.
5. That Julius Smith never was married.



114. [93.]

ADMISSION OF FACTS, PURSUANT TO NOTICE.

[*Not to be printed.*]

The Defendant [*or* Plaintiff] in this action, for the purposes of this action only, hereby admits the several facts respectively hereunder specified, subject to the qualifications or limitations, if any, hereunder specified, saving all just exceptions to the admissibility of such facts, or any of them, as evidence in this action.

Order IX,  
Rule 8.

Provided that this admission is made for the purposes of this action only, and is not an admission to be used against the Defendant [*or* Plaintiff] on any other occasion, or by any one other than the Plaintiff [*or* Defendant *or* party requiring the admission].

Dated, &c.

*E.F.*, Solicitor for the Defendant [*or* Plaintiff].

To *G.H.*, Solicitor for the Plaintiff [*or* Defendant].

Facts admitted.	Qualifications or Limitations, if any, subject to which they are admitted.
1. That John Smith died on the 1st of January, 1890.	1.
2. That he died intestate ... ..	2.
3. That James Smith was his lawful son ...	3. But not that he was his only lawful son.
4. That Julius Smith is dead ... ..	4. But not that he died on the 1st of April, 1896.
5. That Julius Smith never was married ...	5.

115. [112.]

NOTICE TO REGISTRAR OF CHANGE IN PLAINTIFF'S TITLE BEFORE JUDGMENT.

[*Not to be printed.*]

Take notice, that \_\_\_\_\_, the Plaintiff in the above action, died upon the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that his last will and testament was duly proved by me in the principal [*or* \_\_\_\_\_ district] probate registry of the Probate, Divorce, and Admiralty Division of the High Court of Justice [*or* that letters of administration to his personal estate and effects were duly granted to me] upon the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that I am the executor of his said will [*or* that I am the administrator of the personal estate and effects of the said deceased].

Order XVII,  
Rule 2.  
By executor  
or adminis-  
trator.

[*Or*, that the above named \_\_\_\_\_, by an assignment dated the \_\_\_\_\_ day of \_\_\_\_\_, duly assigned all his interest in the subject-matter of the above action to me, the undersigned.]

By assignee.

And further take notice, that I am desirous of being substituted as Plaintiff in the above action against the above-named Defendant in the place of the said [or added as a Plaintiff with the said Plaintiff in the above action.]

Dated this                  day of                  19 .  
                                       *(Signature)*

To the Registrar of the Court, and  
to the above-named Defendant.

116. [112A., Nov., 1901.]

NOTICE TO REGISTRAR OF CHANGE IN PLAINTIFF'S TITLE BEFORE  
JUDGMENT, WHERE SUCH CHANGE AFFECTS MORE ACTIONS  
THAN ONE.

Order XVII.,  
Rule 2 (2).

Take notice, that \_\_\_\_\_, the Plaintiff in the several actions mentioned in the schedule hereto, died upon the \_\_\_\_\_ day of \_\_\_\_\_, and that his last will and testament was duly proved by me in the principal [or \_\_\_\_\_ district] probate registry of the Probate, Divorce and Admiralty Division of the High Court of Justice, [or that letters of administration to his personal estate or effects were duly granted to me] upon the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that I am the executor of his said will [or the administrator of the personal estate and effects of the said deceased].

[Or, that \_\_\_\_\_, the plaintiff in the several actions mentioned in the schedule hereto, by an assignment dated the \_\_\_\_\_ day of \_\_\_\_\_, duly assigned all his interest in the subject-matter of the said several actions to me, the undersigned].

And, further take notice, that I am desirous of being substituted as Plaintiff in the said actions against the several Defendants in the said actions in the place of the said [or added as a Plaintiff with the said Plaintiff in the said actions].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Signature).

To the Registrar of the Court, and  
to the several Defendants named in the schedule hereto.

The Schedule above referred to.

Letter and Number.	Plaintiff.	Defendant.

## 117. [113.]

## NOTICE TO DEFENDANT OF CHANGE IN PLAINTIFF'S TITLE BEFORE JUDGMENT.

Take notice, that \_\_\_\_\_ of \_\_\_\_\_, as executor of the last will and testament of \_\_\_\_\_ deceased [or as administrator of the personal estate and effects of \_\_\_\_\_ deceased] [or as assignee under an assignment dated the \_\_\_\_\_ day of \_\_\_\_\_] has this day filed an affidavit, together with a notice, a copy of which notice is hereunto annexed, stating that he is desirous of being substituted as Plaintiff in the above action against you in the place of \_\_\_\_\_ [or added as a Plaintiff with the above-named Plaintiff in the above action against you].

Order XVII.,  
Rule 2.

And further take notice, that unless you appear at the hearing of this action upon the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, to show cause against the same, the said \_\_\_\_\_ will be substituted for [or made a joint Plaintiff with] the above-named Plaintiff.

[N.B.—*Similar notices upon change in Defendant's title before judgment may be prepared from this and the last preceding forms.*]

Order XVII.,  
Rule 3.

## 118. [114.]

## ORDER TO CONTINUE PROCEEDINGS AGAINST A NEW PARTY.

[*Not to be printed.*]

Upon hearing \_\_\_\_\_ who alleged [*state circumstances rendering the order necessary*],

Order XVII.,  
Rules 4, 5.

It is ordered that the proceedings in this action be carried on between the Plaintiffs [*name the continuing Plaintiffs*] and the Defendants [*name the continuing Defendants*] and X.Y. [*the person upon whom the interest or liability has devolved*].

And it is ordered that notice of this order be served on the said X.Y., \_\_\_\_\_ and that the further proceedings in this action be adjourned until \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Judge [or Registrar].

## 119. [New.]

## NOTICE TO PARTY AGAINST WHOM PROCEEDINGS ORDERED TO BE CONTINUED.

I hereby give you notice, that by an order of this Court dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, a copy of which order is hereunto annexed, together with a copy of the summons in this action, it was ordered that the proceedings in this action should be carried on between the Plaintiffs (*name the continuing Plaintiffs*) and the Defendants (*name the continuing Defendants*) and you X.Y. \_\_\_\_\_ as (*state the character in which the new party is added*).

Order XVII.,  
Rule 5.

And further take notice, that the further proceedings in this action have been adjourned to the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon : and that if you do not attend at (*the court-house*) at \_\_\_\_\_ upon the day and at the hour above mentioned, either in person or by your solicitor, such order will be made or proceedings taken as the Judge may think fit.

And further take notice, that you may at or before the hearing apply to the Judge or Registrar to discharge the said order of the day of \_\_\_\_\_ 19\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Registrar.

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120. [123.]

ORDER FOR TRANSFER.

51 & 52 Vict.  
c. 43. ss. 42,  
85.  
Order VIII,  
Rule 9.

It is ordered that the above action be transferred to the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

To the Plaintiff and Defendant.

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121. [124.]

NOTICE BY COURT, TO WHICH ACTION HAS BEEN TRANSFERRED, OF  
DAY OF TRIAL.

51 & 52 Vict.  
c. 43. ss. 42,  
85.  
Order VIII,  
Rule 9.

Take notice, that the above action has been transferred to this Court, and that it is appointed to be tried in this Court on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon.

To the Plaintiff and Defendant.

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122. [125.]

CONSENT THAT COURT SHALL DECIDE IN AN ACTION WHERE TITLE  
HAS INCIDENTALLY COME IN QUESTION.

[*Not to be printed.*]

51 & 52 Vict.  
c. 43. s. 61.

We, [the respective Solicitors of] the Plaintiff and Defendant, do hereby, under the provisions of section 61 of the County Courts Acts, 1888, consent that this action shall be decided by His Honour the Judge of this Court.

Witness our hands, this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Plaintiff [*or* 's Solicitor].  
Defendant [*or* 's Solicitor].

---

123. [145B., April, 1895.]

## SUMMONS TO WITNESS TO GIVE EVIDENCE.

You are hereby required to attend at [*the court-house*] on 51 & 52 Vict.  
the day of 19, at the hour c. 43. ss. 110,  
of in the noon, and so from day to day, until 111.  
the above action is tried, to give evidence in the above action on behalf of the Order XVIII.,  
[Plaintiff *or* Defendant, *as the case may be*]. Rule 3.

In default of your attendance you will be liable to a fine of 10*l.* under section 111 of the County Courts Act, 1888, payment of which fine may, under section 167 of the Act, be enforced, upon the order of the Judge, in such manner as payment of a sum adjudged to be paid on summary conviction may be enforced under the Summary Jurisdiction Acts, that is to say, by distress and sale of your goods, or, in default or in lieu of distress, by imprisonment.

Dated this day of 19 .

Registrar.

To

124. [146B., April, 1895.]

## SUMMONS TO WITNESS TO PRODUCE DOCUMENTS.

You are hereby required to attend at [*the court-house*] 51 & 52 Vict.  
on the day of 19, at the hour e. 43. ss. 110,  
of in the noon, and so from day to day, until the above action 111.  
is tried, to give evidence on behalf of , and also to bring with you Order XVIII.  
and produce the several documents hereunder specified [and all other books, Rule 3.  
papers, writings and other documents relating to the above action, which may  
be in your custody, possession, or power].

In default of your attendance you will be liable to a fine of 10*l.* under section 111 of the County Courts Act, 1888, payment of which fine may, under section 167 of the Act, be enforced, upon the order of the Judge, in such manner as payment of a sum adjudged to be paid on summary conviction may be enforced under the Summary Jurisdiction Acts, that is to say, by distress and sale of your goods, or, in default or in lieu of distress, by imprisonment.

Dated this day of 19 .

Registrar.

To

[*Here insert list of documents required to be produced.*]

125. [147.]

## AFFIDAVIT OF SERVICE OF SUMMONS ON WITNESS.

I of the above-named Plaintiff [*or* Defendant] Order XVIII.  
[*or* I, L.M., of solicitor for the above-named Plaintiff [*or* Defendant], Rule 3.  
[*or* I, X.Y., of a clerk [*or* servant] in the employ of the above-named Plaintiff [*or* Defendant] [*or* of L.M., the solicitor for the above-named Plaintiff] [*or* Defendant] make oath and say as follows :— Order XIX.,  
Rule 12.

1. That I [*where service made by a clerk or servant*] am a clerk [*or servant*] in the employ of the above-named Plaintiff [*or Defendant*] [*or of L.M., the solicitor for the above-named Plaintiff [or Defendant]*].

2. That I did on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, duly serve the witness *E.F.*, of \_\_\_\_\_ with a summons, a true copy of which is hereunto annexed, marked "A," by delivering the same personally to the said witness *E.F.*, at \_\_\_\_\_ in the county of \_\_\_\_\_ [*or as the case may be*].

3. That I paid [*or tendered*] to the said witness at the same time and place, the sum of \_\_\_\_\_ for his expenses in accordance with the scale of allowances prescribed by the County Court Rules.

Sworn at, &c.

(*Indorse the copy summons thus* :—This paper, marked "A," is the paper referred to in the annexed affidavit.)

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126. [148A., April, 1895.]

ORDER UNDER SECTION 111 OF THE COUNTY COURTS ACT, 1888,  
FINING WITNESS FOR NON-ATTENDANCE, &c.

51 & 52 Vict.]  
c. 43. s. 111.  
Order LII.,  
Rule 7.

Whereas \_\_\_\_\_ of \_\_\_\_\_ was duly summoned to appear as a witness in this action at a Court this day holden, and at the time of being so summoned payment [*or a tender of payment*] of his expenses was made according to the scale of allowances prescribed by the County Court Rules :

And whereas he has refused [*or neglected*] without sufficient cause shown, to appear at the Court [*or to produce (here describe what he was required by the summons and bound to produce)*] [*or has refused to be sworn or to give evidence*] :

[*\*Or*, Whereas \_\_\_\_\_ being this day present in Court, and being required by the Court to give evidence in this action, refused to be sworn or to make affirmation [*or after being duly sworn [or after having made affirmation] refused to give evidence [or to produce] (here describe what he was required and bound to produce)*] :

It is hereby ordered that the said \_\_\_\_\_ do forfeit and pay a fine of £ \_\_\_\_\_ for such neglect [*or refusal*] :

And it is ordered that the said \_\_\_\_\_ do pay the said sum of £ \_\_\_\_\_ to the Registrar of this Court on this \_\_\_\_\_ day of \_\_\_\_\_ [*or by instalments of \_\_\_\_\_ for every \_\_\_\_\_ days, the first instalment to be paid on the \_\_\_\_\_ day of \_\_\_\_\_*] :

And in default of payment of the said sum according to this order, payment thereof may be enforced, upon the order of the Judge, pursuant to section 167 of the County Courts Act, 1888, by distress and sale of the goods of the said *A.B.* \_\_\_\_\_ under warrant of execution, or, in default or in lieu of distress, by imprisonment of the said \_\_\_\_\_

---

\* Where Witness is present in Court, commence form here.

A.B. for any period not exceeding the period which, under the Summary Jurisdiction Acts, may be imposed in respect of the default of sufficient distress to satisfy a similar sum adjudged to be paid on summary conviction.

Given under the seal of the Court this                      day of

By the Court,

Registrar.

[Or, It is ordered that the said                      do on or before the day of                      produce and leave with the Registrar of this Court at his office situate at                      the following [*describe what he was required and bound to produce*].

Given under the seal of the Court this                      day of                      19

By the Court,

Registrar.

# 127. [149A., April, 1895.]

## WARRANT OF EXECUTION AGAINST GOODS OF WITNESS FOR FINE.

Whereas                      was duly summoned to appear as a witness in this action at a Court holden at                      on the                      day of 19                      , and at the time of being so summoned payment [*or a tender of payment*] of his expenses was made according to the scale of allowances prescribed by the County Court Rules: 51 & 52 Vict. c. 43, ss. 111, 167. Order LII., Rule 7.

And whereas he refused [*or neglected*], without sufficient cause shown, to appear at such Court [*or to produce*] [*here describe what he was required and bound to produce*] [*or refused to be sworn or to give evidence*] :

[Or, Whereas                      being present in Court on the day of                      19                      , and being required by the Court to give evidence, refused to be sworn or to make affirmation [*or after being duly sworn, [or after having made affirmation] refused to give evidence, [or to produce (here describe what he was required and bound to produce)]*] :

And whereas it was thereupon ordered by the Court that the said                      should forfeit and pay a fine of                      for such neglect [*or refusal*] ; and it was ordered that the said                      should pay the said sum of £                      to the Registrar of this Court on the                      day of                      [*or by instalments of                      for every                      days, the first instalment to be paid on the day of*] :

And that in default of payment of the said fine according to the said order payment thereof might be enforced, upon the order of the Judge, pursuant to section 167 of the County Courts Act, 1888, by distress and sale of the goods of the said                      under warrant of execution :

And whereas the said fine has not been paid according to the said order, and the Judge of this Court has ordered it to be levied as herein-after mentioned :

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the said                      , wherever they may be found within the district of this Court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if

any, to the value of five pounds) the sum stated at the foot of this warrant, being the amount remaining unpaid under the said order, together with the costs of this execution : And also to seize and take any money or bank notes, (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money belonging to the said                    which may be there found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof ; and if no sufficient distress can be found, to certify the same to the Registrar of this Court.

Given under the seal of the Court this                    day of  
19                    .

By the Court,

Registrar.

To the High Bailiff of the said Court, and others the bailiffs thereof.

	£	s.	d.
Amount of fine ordered to be paid ... ..			
Paid ... ..			
Remaining due ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon.] .			

*Notice.*—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said

Application was made to the Registrar for this warrant at                    minutes  
past the hour of                    in the                    noon of the                    day of  
19                    .

*See BACK.*

*For indorsement of fees for execution of warrant, see Form 163.*

*[For Return of Insufficient Distress, see Form 358.]*

128. [149B., April, 1895.]

# COMMITMENT IN DEFAULT OF DISTRESS FOR FINE ON WITNESS UNDER SECTION 111.

51 & 52 Vict.  
c. 43. ss. 111,  
167.  
Order LII.,  
Rule 7.

In the County Court of                    holden at                    .  
Between                     
A.B.                    Plaintiff,  
and                     
C.D.,                    Defendant.

To the High Bailiff and others the bailiffs of the said Court, and all peace officers within the jurisdiction of the said Court, and

To the Governor of [*prison used by the Court*].



Whereas \_\_\_\_\_ was duly summoned to appear as a witness in this action at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of 19\_\_\_\_, and at the time of being so summoned payment [*or a tender of payment*] of his expenses was made according to the scale of allowances prescribed by the County Court Rules :

And whereas he refused [*or neglected*], without sufficient cause shown, to appear at such Court [*or to produce*] [*here describe what he was required and bound to produce*] [*or refused to be sworn or to give evidence*] :

[*Or*, Whereas \_\_\_\_\_ being present in Court on the \_\_\_\_\_ day of 19\_\_\_\_, and being required by the Court to give evidence, refused to be sworn or to make affirmation [*or after being duly sworn*] *or after having made affirmation*] refused to give evidence [*or to produce (here describe what he was required and bound to produce)*] :

And whereas it was thereupon ordered by the Court that the said \_\_\_\_\_ should forfeit and pay a fine of \_\_\_\_\_ for such neglect [*or refusal*] : and it was ordered that the said \_\_\_\_\_ should pay the said sum of £ \_\_\_\_\_ to the Registrar of the Court on the \_\_\_\_\_ day of \_\_\_\_\_ [*or by instalments of \_\_\_\_\_ for every \_\_\_\_\_ days, the first instalment to be paid on the \_\_\_\_\_ day of \_\_\_\_\_*] :

And that in default of payment of the said fine according to the said order, payment thereof might be enforced, upon the order of the Judge, pursuant to section 167 of the County Courts Act, 1888, by distress and sale of the goods of the said \_\_\_\_\_ under warrant of execution, or, in default or in lieu of distress, by imprisonment of the said \_\_\_\_\_ for any period not exceeding the period which, under the Summary Jurisdiction Acts, may be imposed in respect of the default of sufficient distress to satisfy a similar sum adjudged to be paid on summary conviction :\*

And whereas default having been made, &c. [*follow Form 359 from the asterisk\* to the end*].

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129. [149c., April, 1895.]

COMMITMENT IN LIEU OF DISTRESS FOR FINE ON WITNESS UNDER  
SECTION 111.

[*Follow Form 128 down to the asterisk\*. Then follow Form 360 from the asterisk\* to the end.*]

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130. [150.]

AFFIDAVIT TO OBTAIN ORDER TO BRING UP PRISONER TO GIVE  
EVIDENCE.

[*Not to be printed.*]

I, \_\_\_\_\_ of \_\_\_\_\_ the Plaintiff [*or Defendant*], make oath 51 & 52 Vict.  
c. 43, s. 112,  
and say :

1. That the above action is appointed to be tried at this Court on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, and that *E.F.*, now a prisoner confined in [*state the prison*], will be a material witness for me upon the said trial.

2. That I am advised and verily believe that I cannot safely proceed to the trial of the said action without the testimony of the said *E.F.*

And I hereby make application to His Honour the Judge of this Court for an order under section 112 of the County Courts Act, 1888, that the said *E.F.* may be brought before this Court to be examined as a witness on my behalf.

---

131. [151.]

ORDER TO BRING UP PRISONER TO GIVE EVIDENCE.

(Seal.)

To [*officer in whose custody the prisoner is*].

51 & 52 Vict.,  
c. 43. s. 112.

Whereas the Plaintiff [*or Defendant*] has made application to me, by affidavit, for an order under section 112 of the County Courts Act, 1888, to bring up before this Court *E.F.*, who it is said is detained as a prisoner in your custody, to be examined as a witness on behalf of the said Plaintiff [*or Defendant*] in a certain action depending in this Court between the said *A.B.*, Plaintiff, and *C.D.*, Defendant :

You are therefore, by this order issued pursuant to the said section, required upon tender made to you of a reasonable sum for the conveyance and maintenance of a proper officer or officers, and of the said *E.F.*, in going to, remaining at, and returning from this Court, to bring the said *E.F.* before this Court at [*court-house*] on the day of 19 , at o'clock in the noon, then and there to be examined as a witness on behalf of the said Plaintiff [*or Defendant*]; and immediately after the said *E.F.* shall have given his testimony before this Court, you are required safely to conduct him the said *E.F.* to the prison from which he shall have been brought under this order.

Dated this day of 19

Judge.

---

132. [152.]

ORDER FOR EXAMINATION OF WITNESSES BEFORE TRIAL.

Upon hearing  
and upon reading the affidavit of filed the  
day of 19 , and

Order  
XVIII.,  
Rules 18-20  
28.

It is ordered that a witness on behalf of the be examined *viva voce* (on oath or affirmation) before [*here insert name of person appointed*], the plaintiff [*or defendant*] or his solicitor or the agent of such solicitor giving to the defendant [*or plaintiff*] or his solicitor or the agent of such solicitor notice in writing of the time and place where the examination is to take place.

Order  
XVIII.,  
Rule 30.

And it is further ordered that the examination so taken be filed with the Registrar of this Court, at his office situate at , and that an office copy thereof may be read and given in evidence on the trial of this action, saving all just exceptions, on proof to the satisfaction of the Judge that the deponent is dead, or out of England and Wales, or unable from sickness or other infirmity to attend the trial, and that the costs of this application be

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## 133. [48.]

## NOTICE BY REGISTRAR REJECTING AFFIDAVIT.

I hereby give you notice that I reject the affidavit of \_\_\_\_\_ of Order XIX.,  
 sworn the \_\_\_\_\_ day of \_\_\_\_\_, and refuse to file the Rule 14.  
 same, and that my reasons for rejecting such affidavit and refusing to file same  
 are as follows :—

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .

Registrar

To the above-named Plaintiff [*or* Defendant].

## 134. [209.]

## ORDER OF REFERENCE.

By the consent of the Plaintiff and Defendant, it is ordered that all matters in difference in this action [*and all other matters within the jurisdiction of this Court in difference between the said parties*] be referred to \_\_\_\_\_ of \_\_\_\_\_, whose award, to be made or given on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_, shall be entered as the judgment in this action : 51 & 52 Vict. c. 43. s. 104. Order XX., Rule 1.

And it is further ordered that the time for making or giving such award may be from time to time enlarged by the Court, in its discretion, for such time as it shall, by indorsement to be made on this order, direct ; and that the said award, when made or given, may be referred back again to the said arbitrator at the like discretion of the Court without the further consent of the said parties ; and in case either of the said parties shall neglect or refuse to attend any appointment to be made by the said arbitrator for proceeding under this order, after two days notice thereof in writing shall have been given to him by serving the same personally or by leaving it at his usual or last known place of abode, the said arbitrator shall be at liberty to proceed *ex parte* on the matters of the said reference, and his award shall be as valid as if both the said parties had duly attended before him :

And it is further ordered that the costs of the said reference and award shall be in the discretion of the arbitrator, and that the costs of the action shall abide the event [*or* be reserved] :

And it is lastly ordered that the submission to arbitration shall not be revocable by either party.

## 134A. [New.]

## PRECEDENT FOR AWARD ON REFERENCE.

[Not to be printed.]

Order XX.,  
Rule 1.

In the County Court of

holden at

No. of Plaint.

Between

A.B.

Plaintiff,  
Defendant.

and

C.D.

Whereas by an order made on the                      day of                      19                      ,  
it was by consent ordered that all matters in difference in this action should be  
referred to me                      , whose award, to be made on or  
before the                      day of                      19                      , should be entered as the  
judgment in the action; and it was further ordered that the costs of the said  
reference and award should be in my discretion, and that the costs of the action  
should abide the event :

Now having heard and considered the allegations and the evidence of the  
parties, I do hereby make my award concerning the matters referred to me as  
follows :

I award and find that the Plaintiff is entitled to recover in this action from  
the Defendant the sum of £                      [or that the Plaintiff is not entitled to  
recover anything in this action from the Defendant] :

And I further award and direct that the Defendant [or Plaintiff] do pay the  
Plaintiff's [or Defendant's] costs of the reference, to be taxed in case of dispute,  
and the costs of this my award [which I assess at the sum of £                      ] :

And in case the Plaintiff [or Defendant] shall pay such last mentioned costs,  
then I award and direct that the Defendant [or Plaintiff] do repay to the  
Plaintiff [or Defendant] the amount which he shall so pay :

[Or such other order as the arbitrator shall make as to costs.]

*Or, where a counter claim has been made,*

I award and find that the Plaintiff is entitled to recover in this action from  
the Defendant the sum of £                      , and that the Defendant is entitled to  
recover on his counter claim from the Plaintiff the sum of £                      : or that  
the Plaintiff is entitled to recover in this action from the Defendant the sum of  
£                      , and that the Defendant is not entitled to recover anything on his  
counter claim from the Plaintiff [or as the case may be.]

And I further award and direct that the Plaintiff and Defendant do each bear  
his own costs of the reference, and do each pay one half of the costs of this my  
award [which I assess at the sum of £                      ] :

And that if either party shall in the first instance pay the whole or more than  
one half of the costs of the award the other party shall repay him so much of  
the amount so paid as shall exceed one half of the said costs [or such other order  
as the arbitrator shall make as to costs].

[If the award directs that anything be done or omitted by the Plaintiff or Defendant, the directions given should be concisely stated immediately before that part of the award which deals with the costs.]

Dated this

day of

19 .

Arbitrator.

135. [127.]

[Not to be printed.]

The County Court of

holden at

LIST OF GENTLEMEN WHO HAVE CONSENTED TO ACT AS ASSESSORS IN THIS COURT UNDER SECTION 103 OF THE COUNTY COURTS ACT, 1888.

Order XXI,  
Rules 1, 3.

No.	Name.	Address.	Description.
1	A. B. ... ..		
2	C. D. ... ..		
3	E. F. ... ..		
4	G. H. ... ..		
5	I. K. .. ...		
6	L. M. ... ..		
7	N. O. ... ..		
8	P. Q. ... ..		
9	R. S. ... ..		
10	T. U. ... ..		
11	V. W. ... ..		
12	X. Y. ... ..		

136. [128.]

APPLICATION FOR ASSESSORS.

[Not to be printed.]

In the County of

holden at

No. of Plaintiff.

Between

A.B.

Plaintiff,

and

C.D.

Defendant.

The Plaintiff [or Defendant] applies to have this action tried with an assessor [or assessors], and he submits to His Honour the Judge the name [or

Order XXI,  
Rule 7.

names] of No. 1, *A.B.*, merchant [*or as the case may be*], [*or No. 4, G.H. and No. 9, R.S.*], as a fit person [*or fit persons*] to be summoned to act as assessor [*or assessors*].

\*The Defendant [*or Plaintiff*] consents to the appointment of the assessor [*or assessors*] herein named, as appears by his consent thereto filed herewith.

Dated this                      day of                      19   .

Plaintiff [*or Defendant*].

*Memorandum of Consent by Judge.*

I consent to try this action with the assistance of an assessor [*or assessors*] [*or as the case may be*].

Judge.

*When the application is in an action under the Employers Liability Act, 1880, substitute as follows for the first paragraph :—*

Order XLIV.,  
Rule 6.

The Plaintiff [*or Defendant*] applies to have an assessor [*or assessors*] appointed to assist the Court in ascertaining the amount of compensation to be awarded to the Plaintiff, should the judgment be in his favour; and he submits the names of the following persons, who have expressed their willingness in writing to act as assessors, should they be appointed.

(*Here set out the names, addresses, and occupations of the persons above referred to.*)

137. [129.]

SUMMONS TO ASSESSOR.

In the County Court of                      holden at                      .  
No.                      .

(*Seal.*)

[*Title of Action.*]

The                      day of                      19   .

SIR,

You are hereby summoned to attend and serve as an assessor in this Court on the                      day of                      19   , at the hour of                      in the                      noon, to assist the Judge in the hearing and determination of this action under section 103 of the County Courts Act, 1888 [*or as the case may be*].

I am, Sir,

Your obedient Servant,

Registrar.

To                      , of                      .

51 & 52 Vict.  
c. 43. s. 103.  
Order XXI.,  
Rules 8, 10.  
Order XLIV.,  
Rules, 10, 11.

\* Where the other party does not consent, or where the other party has filed an application for the appointment of assessors, strike this paragraph out.

138. [130.]

NOTICE TO OPPOSITE PARTY OF NAMES OF ASSESSORS SUGGESTED BY PARTY  
APPLYING THAT ACTION SHOULD BE TRIED WITH THEIR ASSISTANCE.

Take notice, that the Plaintiff [*or* Defendant] having applied to His Honour the Judge for the appointment of assessors to assist him in trying this action, his Honour the Judge is willing that it should be so tried.

Below are the names of the assessors the Plaintiff [*or* Defendant] desires should be summoned.

Should you have any objection to their acting as assessors, you must forthwith send me in writing your reasons for your objection, and must mention the names of any other of the assessors of this Court whom you are willing should be summoned.

Should you have no objection to the assessors named being summoned, you must forthwith sign this notice and return it to me.

No. 1, *A.B.*, of \_\_\_\_\_, Merchant.  
 No. 4, *G.H.*, of \_\_\_\_\_, Merchant.

The Defendant [or Plaintiff] has no objection to make to the above assessors being summoned.

[To be altered as required, where the application is in an action under the *Employers Liability Act, 1880.*]

(Signature.)

139. [131.]

NOTICE OF SITTING TO HEAR OBJECTIONS RAISED BY ONE PARTY TO  
ASSESSORS NAMED BY THE OTHER.

Take notice, that His Honour the Judge [*or I*] will on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon. Order XXI, Rule 10.

sit at [*state where*] to hear the objections made by the Plaintiff [*or Defendant*] to the under-mentioned persons being summoned to act as assessors in this action.

Dated this                      day of                      19                     

Registrar.

To the above-named Plaintiff and Defendant.

140. [132.]

### ORDER UPON HEARING OBJECTIONS TO PROPOSED ASSESSORS.

Upon the hearing of the objections made by the Plaintiff [or Defendant] to the under-mentioned persons being summoned to act as assessors in this action, [here insert order].

Order XXI,  
Rule 10.

By the Court.

Registrar.

## 141. [133.]

## NOTICE OF REFUSAL TO SUMMON ASSESSORS.

Order XXI., Rule 8.  
Order XLIV., Rule 10.

I hereby give you notice that His Honour the Judge of this Court has directed me to inform you that the application for assessors to be summoned to assist him at the hearing of the above action is refused, he being of opinion that the appointment of such assessors is unnecessary in the present action.

Dated this                      day of                      19                      .

Registrar.

To the above-named Plaintiff and Defendant.

## 142. [New.]

## NOTICE REQUIRING A JURY.

[*Not to be printed.*]

51 & 52 Vict. c. 43. s. 101.  
Order XXII., Rule 1.  
Order XLIV., Rule 4.  
Order LI., Rule 24.

Take notice that the Plaintiff [*or* Defendant] requires a jury to be summoned to try this action.

Dated this                      day of                      19                      .

Plaintiff [*or* Defendant]

To the Registrar of the Court.

## 143. [139.]

## REGISTRAR'S NOTICE OF JURY.

51 & 52 Vict. c. 43. s. 101.  
Order XXII., Rule 1.  
Order XLIV., Rule 4.  
Order LI., Rule 24.

Take notice, that this action will be tried by a jury, the                      having demanded a jury therein.

To the Defendant [*or* Plaintiff].

## 144. [140.]

## SUMMONS TO JUROR.

In the County Court of                      holden at                      .

51 & 52 Vict. c. 43. s. 102.  
Order XXII., Rule 1.  
Order XLIV., Rule 4.  
Order LI., Rule 24.

You are hereby summoned to attend and serve as a juror in this Court, at the                      on                      the                      day of                      19                      , at the hour of                      in the                      noon, upon the trial of any action or actions to be then and there tried by jury; and in default of attendance you will be liable to a penalty of five pounds, under section 102 of the County Courts Act, 1888.

Given under the seal of the Court, this                      of                      , 19                      .

Registrar.

To  
of



## 145. [141.]

## ORDER FINING JUROR FOR NON-ATTENDANCE.

In the County Court of

holden at

Whereas \_\_\_\_\_ was duly summoned to attend and serve this 51 & 52 Vict.  
 day as a juror in this Court, upon the trial of any action or actions to be then c. 43. s. 102.  
 and there tried by jury at this Court ;

And whereas he has neglected, without sufficient cause shown, to attend  
 and serve as a juror at this Court :

It is hereby ordered that he shall forthwith [*or on the*  
 day of \_\_\_\_\_] pay to the Registrar of this Court a fine of £  
 for such neglect.

## 146. [142.]

## WARRANT OF EXECUTION AGAINST GOODS OF JUROR FOR FINE.

Whereas \_\_\_\_\_ was duly summoned to attend and serve as 51 & 52 Vict.  
 a juror at a Court holden on the \_\_\_\_\_ day of \_\_\_\_\_ upon the c. 43. ss. 102,  
 trial of any action or actions to be then and there tried by jury : 167.

And whereas he neglected, without sufficient cause shown, then to attend  
 and serve as a juror at such Court, and it was thereupon ordered by the Court  
 that he should forthwith [*or on the* \_\_\_\_\_ day of \_\_\_\_\_]  
 pay to the Registrar of this Court a fine of £ \_\_\_\_\_ for such  
 neglect :

And whereas the said sum has not been paid according to the said order,  
 and His Honour the Judge of this Court has ordered it to be levied as  
 herein-after mentioned :

These are therefore to require and order you forthwith to make and levy, by  
 distress and sale of the goods and chattels of the said \_\_\_\_\_,  
 wheresoever they may be found within the district of this Court (except  
 the wearing apparel and bedding of him or his family, and the tools and  
 implements of his trade, if any, to the value of five pounds) the sum stated at  
 the foot of this warrant, being the amount of such fine, together with the  
 costs of this execution ; and also to seize and take any money or bank notes,  
 whether of the Bank of England or of any other bank, and any cheques, bills of  
 exchange, promissory notes, bonds, specialties, or securities for money belonging  
 to him, which may be there found, or such part or so much thereof as may be  
 sufficient to satisfy this execution, and the costs of making and executing the  
 same, and to pay what you shall have so levied to the Registrar of this Court,  
 and to make return of what you have done under this warrant immediately  
 upon the execution thereof.

Given under the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

By the Court,

Registrar.

[*Conclude as in Form 127.*]

## 147. [160.]

ORDER FOR COSTS OF DAY WHERE RULE FOR CERTIORARI OR  
PROHIBITION HAS NOT BEEN SERVED.

51 & 52 Vict.  
c. 43 s. 129.

Whereas a rule [*or* summons] has been granted by the High Court of Justice [*or* a Judge of the High Court of Justice] requiring cause to be shown why a writ of certiorari [*or* prohibition] should not issue in this action, and no order has been made by such Court [*or* Judge] respecting the costs in this Court :

And whereas a copy of such rule [*or* summons] has not been served on the Plaintiff [*or* Defendant] [*or* on the Registrar], according to section 129 of the County Courts Act, 1888 :

And whereas the Plaintiff [*or* Defendant] has on this day appeared at this Court to prosecute [*or* defend] this action :

It is ordered that the Defendant [*or* Plaintiff] do pay the sum of £  
for the Plaintiff's [*or* Defendant's] costs of the day ; and it is ordered that the  
Defendant [*or* Plaintiff] do pay the same to the Registrar of this Court on  
the                                      day of                                      19 .

## 148. [161.]

ORDER FOR COSTS OF DAY WHERE WRIT OF CERTIORARI OR  
PROHIBITION HAS NOT BEEN LODGED.

51 & 52 Vict.  
c. 43. s. 130.

Whereas a writ of certiorari [*or* prohibition] has been granted in this action by the High Court of Justice [*or* a Judge of the High Court of Justice], on the *ex parte* application of the Defendant [*or* Plaintiff], who has not lodged it with the Registrar of this Court [*or* has not given notice to the Plaintiff [*or* Defendant] that it has issued] two clear days before this day, being the day fixed for hearing this action :

And whereas the said [Court *or* Judge] has made no order respecting the costs in this Court :

And whereas the Plaintiff [*or* Defendant] has on this day appeared at this Court to prosecute [*or* defend] this action :

It is ordered that the Defendant [*or* Plaintiff] do pay the sum of £  
for the Plaintiff's [*or* Defendant's] costs of the day ; and it is ordered that the  
Defendant [*or* Plaintiff] do pay the same to the Registrar of this Court on  
the                                      day of                                      19 .

149. [37.]

ORDER FOR COSTS TO DEFENDANT WHERE PLAINTIFF DOES NOT APPEAR.

Whereas the Plaintiff has not appeared either in person or by his solicitor at the Court holden this day, being the day appointed for the trial of this action, and the Defendant has appeared in person [*or by his solicitor*], and has not admitted the demand: It is awarded that the Plaintiff do pay the sum of £                      for the Defendant's costs: And it is ordered that the Plaintiff do pay the same to the Registrar of this Court on the                      day of                      19                      .

Order XXII.,  
Rule 6.

[*To be altered as required, where order made for payment of costs to be taxed.*]

150. [33.]

JUDGMENT FOR DEFENDANT, OR NONSUIT.

Upon the trial of this action at a Court holden this day, it is adjudged that judgment be entered for the Defendant [*or that a nonsuit be entered*], and that the Plaintiff do pay the sum of £                      for the Defendant's costs: And it is ordered that the Plaintiff do pay the same to the Registrar of this Court on the                      day of                      19                      .

51 & 52 Vict.  
c. 43, ss. 88, 93.

[*To be altered as required, if order made for payment of costs to be taxed.*]

151. [34 (1), May, 1899.]

JUDGMENT FOR PLAINTIFF.

(1.)

Acknowledgment of  
payment into Court.

Date.	£	s.	d.	Received by

[*or by instalments of*  
to be paid on the                      day of                      19                      ].

It is this day adjudged that the Plaintiff do recover against the Defendant the sum of £                      for debt [*or damages*], and £                      for costs, amounting together to the sum of £                      :

Order XXXIII.,  
Rules 2, 3.  
Order  
XXXIV.,  
Rule 3.

And it is ordered that the Defendant do pay the same to the Registrar of this Court forthwith [*or on the*                      day of                      ] for every                      days, the first instalment

*[Where judgment is recovered against a married woman under section 1, sub-section 2, of the Married Women's Property Act, 1882, add—*

45 & 46 Vict.  
c. 75.

And it is further ordered that execution upon this judgment be limited to the separate property of the Defendant not subject to any restraint against anticipation, unless by reason of section 19 of the Married Women's Property Act, 1882, such property shall be liable to execution notwithstanding such restriction.]

51 & 52 Vict.  
c. 43. s. 149.

Order XXV.,  
Rule 8.

[In case default be made in payment of any instalment according to this order, execution or successive executions may issue for the whole of the said sum and costs then remaining unpaid, or for such portion thereof as the Court shall order.]

*N.B.—This form will, by striking out the words not required, apply to judgments whether for payment of the whole claim forthwith, or within fourteen days or any other specified time, or for payment by instalments, and to judgments under section 99 of the County Courts Act, 1888, and also to judgments in replevin, where the judgment is for the Plaintiff. If at the time of making an order for payment by instalments the Court directs that in case default be made in payment of any instalment, execution shall issue for a portion only of the amount remaining unpaid, the last paragraph must be altered so as to give effect to such order.*

(2.)

*Where judgment is given for a sum exceeding £20, the Court may order judgment to be entered as follows :—*

Order XXIII.,  
Rule 12.

It is this day adjudged that the Plaintiff do recover against the Defendant the sum of £                      for debt [*or damages*], and his costs of this action, to be taxed according to Column                      of the Scales of Costs :

And it is ordered that the Defendant do pay the said sum of £                      to the Registrar of this Court forthwith [*or on the                      day of*], and do pay the amount of the said costs when taxed to the Registrar of this Court forthwith [*or within fourteen days*] after the date of the certificate of taxation.

*[Add, if necessary, paragraph as above where judgment is recovered against a married woman.]*

In case default be made in payment, execution may issue for the sum and costs remaining unpaid; or if default is made in payment of the said sum of £                      before the said costs have been taxed, separate warrants may issue for the recovery of the said sum on default in payment thereof, and for the recovery of the said costs after the same have been taxed and default has been made in payment thereof, subject to the provisions of Order XXV., Rule 9, of the County Court Rules.

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## 152. [35.]

**JUDGMENT WHERE COUNTER-CLAIM HAS BEEN MADE.**

It is this day adjudged that the Plaintiff in this action do recover against the Defendant the sum of £                      for debt [or damages] and £                      for costs, amounting together to the sum of £                      [or that judgment be entered for the Defendant [or that a nonsuit be entered] in this action, and that the Plaintiff do pay the sum of £                      for the Defendant's costs].

Order XXII.,  
Rule 22.

And it is further adjudged that the Defendant do recover on his counter-claim against the Plaintiff the sum of £                      for debt [*or damages, as the case may be*] and £                      for costs, amounting together to the sum of £                      [*or that judgment be entered for the Plaintiff on the Defendant's counter-claim [or that the counter-claim be struck out], and that the Defendant do pay the sum of £                      for the Plaintiff's costs of the said counter-claim*].

*If the same party succeeds both in the action and on the counter-claim, proceed as follows :—*

And it is ordered that the [*party against whom judgment is given*] do pay to the Registrar of this Court the sum of £ \_\_\_\_\_, being the total amount adjudged against him as aforesaid in this action and on the Defendant's counter-claim :

*[Or, if one party succeeds in the action and the other on the counter-claim, proceed as follows :—*

And it is ordered that the [party against whom the balance is] do pay to the Registrar of this Court the sum of £ , being the balance in favour of [the other party] after deducting the amount adjudged to the [party against whom the balance is] as aforesaid] :

And it is ordered that the said sum be so paid forthwith [*or on the day of* ] [*or by instalments of* ] for every days, the first instalment to be paid on the day of 19 ].

[To be altered as required, where judgment is given for payment of a sum of money and costs to be taxed.]

153. [159.]

### ORDER TO SUSPEND JUDGMENT OR ORDER.

It is ordered that the judgment [or order] [or that execution under the 51 & 52 Vict.,  
\*judgment [or order]] of this Court in this action, bearing date the c. 43. s. 153.  
day of 19 , be suspended until the day of  
19 .

154. [162.]

## ORDER FOR NEW TRIAL.

It is ordered that the judgment in this action, and all subsequent proceedings thereon, be set aside, and a new trial had between the parties on [set out the terms or conditions, if any, on which the order is made].



156. [38A., Feb., 1892.]

NOTICE OF PAYMENT INTO COURT UNDER JUDGMENT OR ORDER.

I hereby give you notice that *A.B.*, the Defendant [or Garnishee] has paid into Court the sum of £ under the judgment [or order] obtained by you against him herein. Order XXIII.,  
Rule 13.

[*N.B.*—Upon your applying for the above amount it will be necessary that you should produce or send the plaint-note given to you on the entry of the plaint.]

157. [34A.]

ORDER ALTERING JUDGMENT OR ORDER.

In the County Court of holden at  
Between No. of plaint. Order XXIII.,  
Rules 14, 15.  
*A.B.* Plaintiff,  
[Address, Description.]  
and  
*C.D.* Defendant.  
[Present address, description, and, if known, place of employment.]

Whereas the Plaintiff obtained a judgment [or an order] against the Defendant in this Court on the day of 19 , for the payment of £ , together with £ for costs, [and in payment thereof [or of part thereof] the Defendant has made default] :

Acknowledgment of  
payment into Court.

Date.	£	s.	d.	Received by

Upon the application of the Plaintiff [or Defendant] it is ordered that the Defendant do pay the amount still due under the said judgment [or order], as stated at the foot of this order, to the Registrar of this Court, on the day of 19 , [or by instalments of for every days ; the first payment to be made on the day of 19 .]

Given under the seal of the Court, this day of 19 .

Registrar.  
£ s. d.

Amount remaining due on judgment [or order]

158. [115A., Feb., 1892.]

### ORDER TO PROCEED AFTER DEATH OF PLAINTIFF AFTER JUDGMENT.

Order XXV.,  
Rule 14.

Upon reading the affidavit of \_\_\_\_\_, It is ordered  
that *E.F.*, \_\_\_\_\_ the executor of *A.B.*, \_\_\_\_\_ the Plaintiff in this  
action, who has died since judgment, be substituted as Plaintiff for the original  
Plaintiff, and that the said *E.F.* \_\_\_\_\_ be at liberty to issue execution  
against *C.D.*, \_\_\_\_\_ the Defendant in this action [or to take any such  
proceedings against *C.D.* \_\_\_\_\_ the defendant in this action, as the  
deceased Plaintiff was entitled to take against him], for the amount of the  
unsatisfied judgment and costs in this action [or that the question whether  
*E.F.*, \_\_\_\_\_ the executor of *A.B.*, \_\_\_\_\_ the original Plaintiff in  
this action, now deceased, is entitled to recover the amount of the judgment  
obtained against *C.D.*, \_\_\_\_\_ the Defendant in this action, and costs,  
shall be tried by action to be commenced by plaintiff in the ordinary way,  
wherein the said *E.F.* \_\_\_\_\_ shall be Plaintiff and the said *C.D.* \_\_\_\_\_  
shall be Defendant.

Dated this                day of                19     .  
Judge [or Registrar].

159. [115A. (1), Nov., 1900.]

Order XXV.,  
Rule 16.

ORDER TO PROCEED AFTER DEATH OF PLAINTIFF AFTER JUDGMENT,  
WHERE SUCH ORDER AFFECTS MORE ACTIONS THAN ONE.

Upon reading the affidavit of \_\_\_\_\_, \_\_\_\_\_, the executor of  
It is ordered that *E.F.*, \_\_\_\_\_ the Plaintiff in the several actions mentioned in  
*A.B.*, \_\_\_\_\_ the schedule hereto, who has died since judgment, be substituted as Plaintiff  
for the original Plaintiff in the said actions, and that the said *E.F.*  
be at liberty to issue execution against the several Defendants in the said actions  
[or to take any such proceedings against the several Defendants in the said  
actions as the deceased Plaintiff was entitled to take against them respectively]  
for the several amounts of the unsatisfied judgments and costs in the said  
actions [or that the question whether *E.F.*, \_\_\_\_\_ the executor of  
*A.B.*, \_\_\_\_\_ the original Plaintiff, now deceased, in the several  
actions mentioned in the schedule hereto is entitled to recover against the  
several Defendants in the said actions the several amounts of the unsatisfied  
judgments and costs in the said actions, shall be tried by separate actions to be  
commenced by plaintiff in the ordinary way, wherein the said *E.F.*  
shall be plaintiff, and the several Defendants in the said actions shall be  
defendants.

Dated this                day of                19     .  
Judge [or Registrar].

The Schedule above referred to.

Letter and Number.	Plaintiff.	Defendant.



160. [115B., Feb., 1892.]

ORDER TO PROCEED AFTER CHANGE OF INTEREST BY ASSIGNMENT OR  
OTHERWISE AFTER JUDGMENT.

Upon reading the affidavit of \_\_\_\_\_, It is ordered that *E.F.*, Order XXV.,  
Rule 14.  
the assignee [*or as the case may be*] of the judgment [*or*  
order] obtained by *A.B.*, the Plaintiff [*or C.D.*, the Defendant, *as*  
*the case may be*] in this action be substituted as Plaintiff [*or Defendant*] in this  
action in the name and by the description of *E.F.*, of, &c.,  
the assignee of *A.B.*, [*or C.D.*,  
the Defendant] of, &c., and that the said *E.F.*,  
in and by such name and description, be at liberty to issue execution against  
the Defendant [*or the Plaintiff*] in this action [*or to take any such proceedings*  
against the Defendant [*or the Plaintiff*] in this action, as the said Plaintiff [*or*  
Defendant] was entitled to take against him for the amount of the unsatisfied  
judgment and costs in this action [*or that the question whether E.F.*,  
of, &c., the assignee of *A.B.*, of, &c.,  
[*or of C.D.* of, &c., ]  
is entitled to the benefit of the judgment [*or order*] obtained by the  
Plaintiff [*or Defendant*] against the Defendant [*or Plaintiff*] in this action,  
shall be tried by action to be commenced by plaint in the ordinary way,  
wherein the said *E.F.*, in and by such name and description as  
aforesaid, shall be Plaintiff, and the said *C.D.* [*or the said*  
*A.B.* ] shall be Defendant.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Judge [*or Registrar*].

161. [115B. (1), Nov., 1900.]

ORDER TO PROCEED AFTER CHANGE OF INTEREST BY ASSIGNMENT OR Order XXV.,  
Rule 16.  
OTHERWISE AFTER JUDGMENT, WHERE SUCH ORDER AFFECTS MORE  
ACTIONS THAN ONE.

Upon reading the affidavit of \_\_\_\_\_  
It is ordered that *E.F.*, the assignee  
(*or as the case may be*) of the several judgments [*or orders*] obtained by  
*A.B.* the Plaintiff in the several actions mentioned in  
the schedule hereto, be substituted as Plaintiff in the said actions in the name  
and by the description of *E.F.* of, &c.,  
the assignee of *A.B.* of, &c.,  
and that the said *E.F.*, in and by such name and description,  
be at liberty to issue execution against the several Defendants in the said  
actions [*or to take any such proceedings against the several Defendants in*  
the said actions as the said *A.B.* the Plaintiff was entitled  
to take against them respectively] for the several amounts of the unsatisfied  
judgments and costs in the said actions [*or that the question whether*  
*E.F.*, of, &c., the assignee of *A.B.*, of, &c.,  
is entitled to the benefit of the several judgments [*or orders*]

obtained by the said *A.B.*, the Plaintiff in the several actions mentioned in the schedule hereto, against the several Defendants in the said actions, shall be tried by separate actions to be commenced by plaintiff in the ordinary way, wherein the said *E.F.*, in and by such name and description as aforesaid, shall be Plaintiff, and the several Defendants in the said actions shall be Defendants.

Dated this            day of            19   .

Judge [*or* Registrar].

The Schedule above referred to

Letter and Number.	Plaintiff.	Defendant.

*N.B.—No proceedings under a judgment or order, either by judgment summons or otherwise, are sanctioned by the rules after any change of interest in the parties entitled to the benefit of the judgment or order without an order in one of the above forms numbered 158 to 161.*

# 162. [163.]

## NOTICE TO BE DELIVERED OR LEFT ON LEVY UNDER WARRANT OF EXECUTION AGAINST GOODS.

Order XXV.,  
Rule 17.

Take notice, that the warrant of execution against your goods on the judgment [*or* order] obtained against you in this action is for the following amount :—

	£	s.	d.
Amount for which judgment [ <i>or</i> order] was obtained ... ..			
Since paid by you into Court ... ..			
Remaining due on judgment [ <i>or</i> order] ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied ... ..			

The fees for keeping possession of such of your goods as may be seized (including expenses of removal, storage of goods, and all other expenses) is SIXPENCE IN THE POUND PER DAY NOT EXCEEDING SEVEN DAYS ON THE VALUE OF SUCH GOODS, to be fixed by appraisement in case of dispute, so that the total fee does not exceed 10s. per day although the value may exceed 20*l.*, and, in addition, for feeding animals, the actual cost thereof.

If you pay the amount to be levied, as stated above, within half an hour of the entry of the bailiff, you will not be required to pay to him any further sum.

If possession is kept after the seventh day at the written request of both parties, the fees and cost of keeping possession as above may be allowed for a reasonable further time in respect of such possession.

If your goods are removed, you will have to pay the appraisement fee as undermentioned.

Your goods are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at your request.

If your goods are sold, the following fees are chargeable for the appraisement and sale, and no others :—

For the appraisement, SIXPENCE IN THE POUND on the value of the goods appraised, over and above the stamp duty.

For the sale, including advertisements, catalogues, sale and commission, and delivery of the goods, ONE SHILLING IN THE POUND ON THE NET PRODUCE OF THE SALE.

For advertising and giving publicity to any sale by auction, pursuant to to section 145 of the Bankruptcy Act, 1883, in addition to the last-mentioned fee, the sum actually and necessarily paid.

Where no sale takes place by reason of the execution being withdrawn, satisfied, or stopped, there may be allowed all charges actually and necessarily incurred for inventory, appraisement, cataloguing, lotting, and preparing for sale, not exceeding ONE SHILLING IN THE POUND on the value of the goods seized, if such value does not exceed ten pounds, and EIGHTPENCE IN THE POUND on any excess above ten pounds, the value to be fixed by appraisement in case of dispute, and, in addition, any sum actually and necessarily paid for advertising pursuant to section 145 of the Bankruptcy Act, 1883.

If your goods are removed, the bailiff is required to give you a sufficient inventory of the goods so removed, and to give you notice of the time when and the place where such goods will be sold, at least twenty-four hours before the time fixed for the sale.

If your goods are sold, the bailiff is required to furnish you, on your request, with a detailed account in writing of the sale, and of the application of the proceeds thereof.

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### 163. [164.]

#### WARRANT OF EXECUTION AGAINST GOODS OF DEFENDANT.

Whereas on the                      day of                      19                      , the Plaintiff                      Order XXV.  
obtained a judgment [or an order] in this Court against the Defendant                      Rule 8.  
[name the Defendant or all the Defendants] for the

sum of £                      for debt [*or* damages] and costs ; and it was thereupon ordered by the Court that the Defendant should pay the same to the Registrar on the                      day of                      [*or* by instalments of for every                      days] :

And whereas default has been made in payment according to the said judgment [*or* order] :

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the Defendant, [*name the Defendant against whose goods execution is issued*] wheresoever they may be found within the district of this Court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the Plaintiff under the said judgment [*or* order], together with the costs of this execution ; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the said Defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court this                      day of                      19   .

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

	£	s.	d.
Amount for which judgment [ <i>or</i> order] was obtained .. .. .			
Paid into Court ... .. .			
Remaining due ... .. .			
Poundage for issuing this warrant ... .. .			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon.]			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said Defendant.

Application was made to the Registrar for this warrant at                      minutes past the hour of                      in the                      noon of the day of                      19   .

SEE BACK.

[*To be indorsed on every warrant of execution.*]

51 & 52 Vict.  
c. 43. s. 155.

# FEES FOR THE EXECUTION OF THIS WARRANT.

Order XXV.,  
Rule 17.

The fees for keeping possession of the goods seized (including expenses of removal, storage of goods, and all other expenses) is SIXPENCE IN THE POUND PER DAY NOT EXCEEDING SEVEN DAYS ON THE VALUE OF SUCH GOODS, to be fixed by appraisement in case of dispute, so that the total fee does not exceed 10s. per day although the value may exceed 20l. and, in addition, for feeding animals, the actual cost thereof.

If the debtor pays the amount to be levied, as stated on the other side, within half an hour of the entry of the bailiff, he will not be required to pay to him any further sum.

If possession is kept after the seventh day at the written request of both parties, the fees and cost of keeping possession as above may be allowed for a reasonable further time in respect of such possession.

If the goods are removed, the debtor will have to pay the appraisement fee as undermentioned.

If the goods are sold, the following fees are chargeable for the appraisement and sale, and no others :—

For the appraisement, SIXPENCE IN THE POUND on the value of the goods appraised, over and above the stamp duty.

For the sale, including advertisements, catalogues, sale and commission, and delivery of the goods, ONE SHILLING IN THE POUND ON THE NET PRODUCE OF THE SALE.

For advertising and giving publicity to any sale by auction, pursuant to section 145 of the Bankruptcy Act, 1883, in addition to the last-mentioned fee, the sum actually and necessarily paid.

Where no sale takes place by reason of the execution being withdrawn, satisfied, or stopped there may be allowed all charges actually and necessarily incurred for inventory, appraisement, cataloguing, lotting, and preparing for sale, not exceeding ONE SHILLING IN THE POUND on the value of the goods seized, if such value does not exceed ten pounds, and EIGHTPENCE IN THE POUND on any excess above ten pounds, the value to be fixed by appraisement in case of dispute, and in addition any sum actually and necessarily paid for advertising pursuant to section 145 of the Bankruptcy Act, 1883.

If the goods are removed, the bailiff is required to give the debtor a sufficient inventory of the goods so removed, and to give him notice of the time when and the place where such goods will be sold, at least twenty-four hours before the time fixed for the sale.

If the goods are sold, the bailiff is required to furnish the debtor, on request, with a detailed account in writing of the sale, and of the application of the proceeds thereof.

## 164. [164A.]

WARRANT OF EXECUTION AGAINST GOODS OF DEFENDANT WHO IS A  
MARRIED WOMAN.Order XXV.,  
Rule 8.

Whereas on the                      day of                      19                      , the Plaintiff obtained a judgment [*or* an order] in this Court against the Defendant for the sum of £                      for debt [*or* damages] and costs ; and it was thereupon ordered by the Court that the Defendant should pay the same to the Registrar on the                      day of                      [*or* by instalments of                      for every                      days] :

And it was further ordered that execution upon the said judgment [*or* order] be limited to the separate property of the Defendant not subject to any restriction against anticipation, unless by reason of section 19 of the Married Women's Property Act, 1882, such property should be liable to execution notwithstanding such restriction :

And whereas default has been made in payment according to the said judgment [*or* order] :

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the Defendant, being her separate property, not subject to any restriction against anticipation as hereinbefore mentioned, wheresover they may be found within the district of this Court (except the wearing apparel and bedding of her or her family, and the tools and implements of her trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the Plaintiff under the said judgment [*or* order], together with the costs of this execution ; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the Defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court this                      day of                      19                      .

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

	£	s.	d.
Amount for which judgment [ <i>or</i> order] was obtained    ...    ...			
Paid into Court    ...    ...    ...    ...    ...    ...    ...    ...			
Remaining due    ...    ...    ...    ...    ...    ...    ...    ...			
Poundage for issuing this warrant    ...    ...    ...    ...    ...			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon.]			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said Defendant.

Application was made to the Registrar for this warrant at \_\_\_\_\_ minutes past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the day of \_\_\_\_\_ 19 .

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

165. [165].

# WARRANT OF EXECUTION AGAINST GOODS OF PLAINTIFF.

Whereas at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, it was ordered by the Court, that judgment should be entered for the Defendant [*or that a nonsuit be entered*], and that the Plaintiff should pay to the Registrar, on or before the \_\_\_\_\_ day of \_\_\_\_\_, the sum of £ \_\_\_\_\_ for the Defendant's costs :

Order XXV.  
Rule 8.

And whereas default has been made in payment according to the said order : These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the Plaintiff, wheresoever they may be found within the district of this Court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the Defendant under the said order, together with the costs of this execution ; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the Plaintiff which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of the Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_  
By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

	£	s.	d.
Costs adjudged ... ..			
Paid into Court ... ..			
Remaining due ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon] ... ..			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said Plaintiff.

Application was made to the Registrar for this warrant at \_\_\_\_\_ minutes past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the day of \_\_\_\_\_ 19 \_\_\_\_\_.

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

166. [166.]

RECEIPT FOR MONEY LEVIED

No		In the County Court of holden at	
		No.	19
19	}	No. of Plaintiff	Plaintiff
No. of Plaintiff		Between	
No. of Execution		and	Defendant
Amount received		Received of the above-named the sum of _____ pounds shillings and _____ pence. R.S. (possession man).	
£		£ : : for	Bailiff.

167. [167.]

ORDER UNDER THE FRIENDLY SOCIETIES AND OTHER ACTS.

[*Not to be printed.*]

Order XLI. Upon the trial of this action at a Court holden this day, it is ordered that the Defendant do [*here insert the terms of the order made by the Court*]:

And it is further ordered, that [*insert terms of order*].

168. [168.]

ORDER FOR WARRANT OF EXECUTION TO ISSUE UNDER THE FRIENDLY SOCIETIES AND OTHER ACTS.

[*Not to be printed.*]

Order XLI. Whereas at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, it was ordered by the said Court [*here insert the terms of the order made by the Court*]:

And it was then further ordered, that [*recite terms of order*]:



And whereas it appears to the Court that the Defendant has not obeyed either of the said orders, although demand in that behalf was duly made upon him :

It is therefore ordered, that a warrant of execution issue for the said sum, being the amount of such penalty and the costs thereof.

169. [169.]

WARRANT OF EXECUTION AGAINST GOODS UNDER THE FRIENDLY SOCIETIES AND OTHER ACTS.

Whereas at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_ 19\_\_\_\_, it was ordered by the said Court, that [*here insert the terms of the order made by the Court*] : Order XLJ.

And it was then further ordered, that [*recite terms of order*] :

And whereas the Defendant has not obeyed either of the said orders :

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the Defendant, wheresoever they may be found within the district of this Court (except the wearing apparel and bedding of the Defendant or his family, and the tools and implements of his trade, if any, to the value of five pounds) the sum stated at the foot of this warrant, being the amount of such penalty and costs, together with the costs of this execution ; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the Defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of the Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

	£	s.	d.
Amount ordered to be paid ... ..			
Costs adjudged ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon.]			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said Defendant.

Application was made to the Registrar for this warrant at \_\_\_\_\_ minutes  
past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the  
day of \_\_\_\_\_ 19 .

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

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170. [169A, Feb., 1892.]

NOTICE OF APPLICATION FOR SALE OF GOODS OTHERWISE THAN BY  
AUCTION.

[*Not to be printed.*]

46 & 47 Vict.  
c. 52. s. 145.  
53 & 54 Vict.  
c. 71. s. 12.  
Order XXV,  
Rule 24.

Take notice that I, the undersigned *A.B.*, the execution creditor [*or* execution debtor] herein, shall on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at [*state where application will be made*], apply to his Honour the Judge [*or* to the Registrar] of this Court for an order that a sale of the goods seized under the execution herein may be made otherwise than by public auction, that is to say [*e.g.*, by private sale to (*state name of intending purchaser if known*)].

The grounds of the application are as follows [*state the grounds*].

*A.B.*

To the High Bailiff  
and to *E.F.*, *G.H.*, &c. [*name*  
*the other persons to be served*].

---

171. [170A, April, 1895.]

NOTICE OF LEVY UNDER EXECUTION IN RESPECT OF A JUDGMENT FOR  
A SUM EXCEEDING 20*l*.

Order II.,  
Rule 35.

Take notice, that the warrant of execution issued against the goods of the Defendant [*naming him*] has been duly executed, and that the proceeds thereof now left in my hands, after deduction of £ \_\_\_\_\_ for the costs of execution, amount to the sum of £ \_\_\_\_\_, which will be duly retained by me for 14 days pursuant to the provisions of sub-section 2 of section 11 of the Bankruptcy Act, 1890.

High Bailiff.

To the Registrar of the County Court of  
holden at

And to the Plaintiff.

---

## NOTICE OF RECEIVING ORDER.

Take notice, that having received notice that a receiving order has been made under the Bankruptcy Act, 1883, against the Defendant [*naming him*], I have withdrawn from possession of the goods seized under the warrant of execution issued against the said Defendant [and have delivered the same to the Official Receiver [*or trustee*] under the said order].

46 & 47 Vict.  
c. 52. s. 46.  
Order II.,  
Rule 36.

High Bailiff.

To the Plaintiff.

---

173. [172.]

## HIGH BAILIFF'S WARRANT TO REGISTRAR OF FOREIGN COURT.

Whereas the warrant of execution hereto annexed has been issued out of this Court against the goods and chattels of :

51 & 52 Vict.  
c. 43. s. 158.  
Order  
XXVIII.,  
Rule 1.

And whereas the goods and chattels of the said are out of the ordinary jurisdiction of this Court, and are believed to be within the jurisdiction of the County Court of holden at , of which you are the Registrar :

[*or*, Whereas the order of commitment hereto annexed has been made against :

And whereas the said is out of the ordinary jurisdiction of this Court, and is believed to be within the jurisdiction of the County Court of holden at , of which you are the Registrar :]

These are therefore to require you to cause the said warrant [*or order*] to be executed within the ordinary jurisdiction of the said last-mentioned County Court.

Dated this day of . 19 .

High Bailiff of the County Court  
of holden at .

To the Registrar of the County Court  
of holden at

NOTE.—This warrant must be signed by the high bailiff and sealed in accordance with section 158 of the Act.

---

174. [173.]

## NOTICE OF NON-EXECUTION OF WARRANT OR ORDER OF COMMITMENT.

Take notice, that the warrant of execution [*or order of commitment*] in this action has not been executed within one calendar month from the day of its delivery to me, for the following reasons (*state reasons*).

Order II.,  
Rule 37.

High Bailiff to the County Court  
of holden at

To the Registrar of the County Court  
of holden at

Order  
XXVIII.,  
Rules 2, 3.

175. [174.]

## RETURN AND CERTIFICATE FROM FOREIGN COURT.

A.B. v. C.D.

RETURN TO ABOVE WARRANT OF EXECUTION [*or* ORDER OF COMMITMENT]  
FROM THE HIGH BAILIFF OF THE COUNTY COURT OF  
HOLDEN AT TO THE HIGH BAILIFF OF THE COUNTY  
COURT OF HOLDEN AT

No. of Plaint.

No. of Warrant.

	£	s.	d.	£	s.	d.
Gross amount levied or received—						
Payments in deduction ... ..						
Man in possession      days, on £      ,						
value of goods seized.						
For appraisement fees on £      ... ..						
Paid for stamp      ... ..						
For fees of sale on £      ... ..						
For rent to landlord      ... ..						
Extra possession under claim      days						
(actual costs).						
Costs of interpleader ordered by Court to be deducted out of the proceeds.						
Net amount paid to the credit of the execution creditor      ... ..						

High Bailiff.

I hereby certify that the above charges are correct, and that the sum of  
£      was paid into Court this      day of      19      .

Registrar.

176. [New.]

## PRÆCIPE FOR JUDGMENT SUMMONS.

Order XXV.,  
Rule 25 (2).

In the County Court of      holden at

No. of Plaint

No. of J. S.

Plaintiff's Names in full.

Plaintiff's Residence and }  
Occupation. }

Names of all Defendants in full.

Residences or Places of Business  
of Defendants, with the Nos. of  
the Houses, and Occupations. }

I apply for the issue of a judgment summons against the above-named Defendant [*name the Defendant, or, if there are more Defendants than one, and Plaintiff desires to proceed against some or one only, name them or him*] in respect of a judgment [*or an order*] of this Court.

And I undertake to prove to the satisfaction of the Court at the hearing, that the judgment debtor has, or has had since the date of the judgment [*or order*], the means to pay the sum in respect of which he has made default, and that he has refused or neglected, or refuses or neglects, to pay the said sum.

I am aware that if I do not prove the same accordingly I shall have to pay the costs of this summons.

Judgment Creditor,  
or,  
Solicitor to Creditor.  
Solicitor's Address.

TO BE FILLED UP BY CLERK.

Fol.	Min. Bk.	Fol.	Ledger						
				£	s.	d.	£	s.	d.
Amount of judgment [ <i>or order</i> ] and costs	...	...	...						
<i>Deduct</i> :—Amounts (if any) in respect of which an order of commitment was made and defendant was imprisoned before date of order	...	...	...						
<i>Add</i> :—Costs of previous judgment summonses, hearings, and commitments (if any) since date of judgment [ <i>or order</i> ] allowed by the Judge	...	...	...						
<i>Deduct</i> :—									
Paid into Court—									
otherwise than under execution against the goods	...								
under execution against the goods, after deducting costs of execution	...	...	...						
Amounts in respect of which an order of commitment has been made <i>since</i> date of judgment [ <i>or order</i> ], and in respect of which defendant has been or may be imprisoned	...								
Amounts which were not required to have been paid before the date of this summons	...	...	...						
Sum in payment of which defendant has made default	...	...	...						
Date when granted				/	/	190			

177. [52A., Feb., 1892.].

AFFIDAVIT FOR LEAVE TO ISSUE JUDGMENT SUMMONS AGAINST  
DEFENDANT OUT OF THE DISTRICT.

Order XXV.,  
Rule 26.

No. of Plaintiff.

In the County Court of

holden at

Between

Plaintiff,

and

Defendant.

(<sup>1</sup>) State name, residence, and occupation. I, (<sup>1</sup>) of (<sup>1</sup>) the above-named Plaintiff, [*or* I, (<sup>1</sup>) of (<sup>1</sup>) ]

make oath and say as follows :—

(<sup>2</sup>) Name all the Defendants. 1. On the day of 19 , I [*or* the Plaintiff] obtained a judgment [*or* an order] in this Court for the sum of £ [*or* for £ including costs] against the Defendant (<sup>2</sup>) and the same [*or*

(<sup>3</sup>) Name the Defendant against whom Plaintiff desires to proceed. £ : : part thereof] is still unsatisfied [and instalments of are now in arrear.]

2. The Defendant (<sup>3</sup>) was [*or* was not] at the date of the entry of the plaint in the action in which the said judgment [*or* order] was obtained living [*or* carrying on business] within the district of this Court.

2A. (<sup>4</sup>) The Defendant was living [*or* carrying on business] at in the county of when the debt sued for in the said action was contracted [*or* the cause of action arose.]

3. The Defendant now lives at in a house [*or* shop] apparently of the yearly rent or value of £ : : .

4. The Defendant carries on the business of a (<sup>5</sup>) in a (<sup>6</sup>) at (<sup>6</sup>)

If a Master. (<sup>5</sup>) State what.

(<sup>6</sup>) State where, and any circumstances showing that the business is profitable or that he has means to pay.

[*or* 4. The Defendant is now employed as a at (<sup>7</sup>) per week.

(<sup>7</sup>) State the name and place of business of his employer, if known. 5. The Defendant is unmarried [*or* is married and has children, of whom work and earn wages] (<sup>8</sup>)

6. I apply to the Court for leave to issue a judgment summons against the said Defendant in respect of the non-payment of the said sum of remaining unsatisfied and in arrear as above-mentioned.

(<sup>8</sup>) *Or*, if these facts are not known, state that the deponent does not know them. Sworn at in the } County of this } day of } One thousand nine hundred and }

Before me,

Registrar.

[*or* Clerk nominated to take Affidavits].

Leave granted [*or* refused].

Judge.

178. [50B., April, 1895.]

## JUDGMENT SUMMONS ON A JUDGMENT OR ORDER OF A COUNTY COURT.

The Debtors Act, 1869.

In the [*title of Court issuing summons*].

No. of Plaintiff.

32 & 33 Vict.  
c. 62, s. 5.  
Order XXV.  
Rules 25. 31.

No. of Judgment Summons.

Between

A.B.

[*Address,**Description*].

Plaintiff,

and

C.D.

[*Present address, description, and  
if known, place of employment.*]

Defendant.

Whereas the Plaintiff obtained a judgment [*or, if no judgment has been obtained, or if a fresh order has been obtained upon a judgment, an order*] against the above-named Defendant <sup>(1)</sup> in this Court [*or in the County Court of* holden at ] on the day of 19 , for the payment of £ for debt [*or damages*] and costs, forthwith [*or on the* day of 19 , *or by instalments of* for every days], and subsequent costs have been incurred in pursuance thereof and allowed by the Judge, amounting to :

(1) Name all the Defendants.

And whereas default has been made in payment of the sum of payable in pursuance of the said judgment [*or order*], and the Plaintiff has required this judgment summons to be issued against you the Defendant <sup>(2)</sup> :

You the said are therefore hereby summoned to appear personally in this Court at [*place where Court holden*] on the day of 19 , at the hour of in the noon, to be examined on oath by the Court touching the means you have or have had since the date of the said judgment [*or order*] to satisfy the sum payable in pursuance of the said judgment [*or order*]; and also to show cause why you should not be committed to prison for such default, or why a receiving order should not be made against you pursuant to subsection 3 of section 103 of the Bankruptcy Act, 1883.

(2) Name the Defendant against whom the judgment summons is issued.

Dated this day of 19

Registrar.

To [*name the Defendant against whom the summons is issued.*].

	£	s.	d.	£	s.	d.
Amount of judgment [ <i>or order</i> ] and costs ... ..						
<i>Deduct</i> :—Amounts (if any) in respect of which an order of commitment was made and defendant was imprisoned <i>before</i> date of order... ..						
<i>Add</i> :—Costs of previous judgment summonses, hearings, and commitments (if any) <i>since</i> date of judgment [ <i>or order</i> ], allowed by the Judge ... ..						
<i>Deduct</i> :—						
Paid into Court, Led.                      Fo.						
otherwise than under execution against the goods ... ..						
under execution against the goods (after deducting costs of execution) ... ..						
Amounts in respect of which an order of commitment has been made <i>since</i> date of judgment [ <i>or order</i> ], and in respect of which defendant has been or may be imprisoned ...						
Amounts which were not required to have been paid before the date of this summons ( <i>see note</i> (*) <i>below</i> ) ... ..						
Sum in payment of which defendant has made default ...						
Costs of this summons ... ..						

\* Where a fresh order has been made *after* defendant has been committed and imprisoned, this amount will be the difference between the amount of the instalments in arrear at the date of the summons and the whole sum payable under the fresh order, *exclusive* of the amount in respect of which defendant was imprisoned *before* the order. *See* Order XXV., Rule 55.

*For indorsement of service, see Form 34.*

#### 178A.

Order XXV., Rule 31. MEMORANDUM TO BE PRINTED AT FOOT OF OR ANNEXED TO JUDGMENT SUMMONS WHERE TRAVELLING EXPENSES ARE PAID OR TENDERED TO THE JUDGMENT DEBTOR.

[*This Memorandum will be the same as paragraph 2 of Form 124.*]

#### 179. [50A., Feb., 1892.]

MEMORANDUM TO BE PRINTED AT FOOT OF OR ANNEXED TO EVERY JUDGMENT SUMMONS ISSUED PURSUANT TO ORDER XXV., RULE 26, FOR SERVICE OUT OF THE DISTRICT.

Order XXV., Rule 37. NOTE.—By Order XXV., Rule 37, of the County Court Rules, it is provided as follows :—

Where a judgment creditor at whose instance a judgment summons is issued, or a judgment debtor summoned to appear by a judgment summons, does not reside within the district of the court in which the summons is to be heard, he may forward to the registrar of the court from which the summons is issued an affidavit, setting forth any facts which he may wish to be before the Court prior to any order being made on the summons. And the Judge may, if he thinks fit, on the hearing of the judgment summons admit the affidavit as the evidence of the person by whom the same is made.

51 & 52 Vict.  
c. 43. s. 83.

An affidavit may be sworn before any judge or registrar, or clerk to a registrar nominated by the judge for that purpose, or a commissioner for oaths, or a justice of the peace,



## 180. [51.]

AFFIDAVIT WHERE JUDGMENT SUMMONS IS SOUGHT ON A JUDGMENT OR ORDER OF A COURT OTHER THAN A COUNTY COURT. Order XXV.,  
Rule 30.

The Debtors Act, 1869.

In the County Court of holden  
at  
In the matter of a judgment [*or order*] of the High Court of Justice [*or as the case may be*].

Between

A.B.  
[*Address,*  
*Description*]. Plaintiff,  
C.D. and  
[*Address,*  
*Description*]. Defendant.

I, A.B., the above-mentioned Plaintiff, make oath and say

1. That on the day of , 19 , I obtained a judgment [*or an order*] in (*here set forth the style of the Court in which the judgment or order was obtained*) against C.D., the above-named  
Defendant, for the payment of the sum of

2. That there is still due under the said judgment [*or order*] the sum of

3. I apply for the issue of a judgment summons against the above-named Defendant in respect of the nonpayment of the said sum of

Sworn at  
&c.

A.B.

## 181. [53.]

JUDGMENT SUMMONS ON A JUDGMENT OR ORDER OF A COURT OTHER THAN A COUNTY COURT.

The Debtors Act, 1869.

In the [*title of Court issuing summons*].

No. of Judgment Summons.

32 & 33 Vict.  
c. 62, s. 5.  
Order XXV.,  
Rules 25, 30,  
31.

Between

A.B. Plaintiff,  
[*Address,*  
*Description*]. and  
C.D. Defendant.  
[*Present address, description, and if known, place of employment*].

Whereas the Plaintiff obtained a judgment [*or an order*] against the above-named Defendant <sup>(1)</sup> in the High Court of Justice [*or as the case may be*] on the day of for the  
sum of £ and there is now due and payable under the said  
judgment [*or order*] the sum of £ ;

(1) Name all  
the Defendants.

And whereas the Plaintiff has required this judgment summons to be issued against you the Defendant <sup>(2)</sup>

<sup>(2)</sup> Name the Defendant against whom the summons is issued.

You are therefore hereby summoned to appear personally in this Court at [place where Court holden] on the day of 19 , at the hour of in the noon, to be examined on oath by the Court touching the means you have or have had since the date of the said judgment [or order] to pay the said sum, in payment of which you have made default; and also to show cause why you should not be committed to prison for such default, or why a receiving order should not be made against you pursuant to subsection 3 of section 103 of the Bankruptcy Act, 1883.

Dated this day of 19 .

Registrar.

To [name the Defendant against whom the summons is issued].

	£	s.	d.
Amount remaining due under judgment [or order] ... ..			
Costs of this summons ... ..			
Total sum due ... ..			

*For indorsement of service, see Form 34.*

182. [52c., July, 1892.]

AFFIDAVIT FOR LEAVE TO ISSUE JUDGMENT SUMMONS ON JUDGMENT OR ORDER AGAINST A FIRM, OR A PERSON CARRYING ON BUSINESS IN A NAME OTHER THAN HIS OWN.

Order XXV.,  
Rule 27.

In the County Court of No. of Plaintiff holden at .

Between Plaintiff,

and Defendants.

<sup>(1)</sup> State name, residence, and occupation.

I, <sup>(1)</sup> of <sup>(1)</sup> the above-named Plaintiff  
[or I, <sup>(1)</sup> of <sup>(1)</sup> ]

make oath and say as follows:—

1. On the day of , 19 , I [or the Plaintiff] obtained judgment [or an order] in this action in this Court [or in the County Court of holden at or in the High Court of Justice, or as the case may be]

<sup>(2)</sup> State name in which Defendants were sued.

against the Defendants <sup>(2)</sup>  
for the sum of £ [and costs] and there is now due and payable under the said judgment [or order] the sum of £ .

<sup>(3)</sup> State name, residence, and occupation.

2. I allege that <sup>(3)</sup>  
of <sup>(3)</sup>  
is liable as a partner in [or the sole member of] the said firm of [or as the person carrying on business on his own behalf in the name of ] to pay the sum

payable under the said judgment [*or order*], and I make this allegation on the following grounds :

(1.) that the said \_\_\_\_\_ has admitted before the Court in the proceedings in which the said judgment [*or order*] was obtained that he was a partner in [*or the sole member of*] the said firm of \_\_\_\_\_ [*or the person carrying on business on his own behalf in the name of* \_\_\_\_\_

Compare  
Order XXV.  
Rule 11.

\_\_\_\_\_ ] at the time of the accruing of the cause of action [*or has been adjudged in the proceedings in which the said judgment [*or order*] was obtained to be liable as a partner in [*or the sole member of*] the said firm of [*or as the person carrying on business on his own behalf in the name of* \_\_\_\_\_ ] :*

[*or* (2) that the said \_\_\_\_\_ was individually served as a partner in [*or the sole member of*] the said firm of \_\_\_\_\_ [*or as the person carrying on business on his own behalf in the name of* \_\_\_\_\_ ] with the summons in the action in which the said judgment [*or order*] was obtained, and failed to appear at the trial] :

Compare  
Order XXV.,  
Rule 11.

[*or* (3) (*State any other grounds on which the person against whom a judgment summons is sought is alleged to be liable, with the deponent's sources of information and grounds of belief.*)]

3. I verily believe that the said \_\_\_\_\_ is well able to pay the said sum of £ \_\_\_\_\_ now due and payable under the said judgment [*or order*] [<sup>(5)</sup> and I am duly authorised by the Plaintiff to make this affidavit on his behalf].

(5) To be added where Plaintiff does not himself make the affidavit.

4. I apply for the issue of a judgment summons against the said \_\_\_\_\_ in respect of the non-payment of the said sum of £ \_\_\_\_\_ .

Sworn at \_\_\_\_\_ in the \_\_\_\_\_  
County of \_\_\_\_\_ this \_\_\_\_\_  
day of \_\_\_\_\_ 19 \_\_\_\_ .  
Before me, \_\_\_\_\_

183. [52D., July, 1892.]

AFFIDAVIT FOR LEAVE TO ISSUE JUDGMENT SUMMONS FOR SERVICE OUT OF THE DISTRICT ON JUDGMENT OR ORDER AGAINST A FIRM, OR A PERSON CARRYING ON BUSINESS IN A NAME OTHER THAN HIS OWN. Order XXV. Rule 27.

No. of Plaintiff  
In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_ .

Between \_\_\_\_\_  
and \_\_\_\_\_  
Plaintiff,  
Defendants.

1, (1) \_\_\_\_\_ of (1) \_\_\_\_\_  
the above-named Plaintiff

(1) State name, residence, and occupation.

[*or* I (1) \_\_\_\_\_ of (1) \_\_\_\_\_ ]

make oath and say as follows :—

1. On the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, I [*or the Plaintiff*] obtained judgment [*or an order*] in this action in this Court [*or in*

the County Court of \_\_\_\_\_ holden at \_\_\_\_\_  
 or in the High Court of Justice, *or as the case may be*] for  
 against the Defendants<sup>(2)</sup> \_\_\_\_\_  
 the sum of £ \_\_\_\_\_ [and costs], and there is now due and payable  
 under the said judgment [*or order*] the sum of £ \_\_\_\_\_ .

(<sup>2</sup>) State  
 name in  
 which De-  
 fendants  
 were sued.

2. I allege that (<sup>3</sup>) \_\_\_\_\_  
 of<sup>(3)</sup> \_\_\_\_\_  
 is liable as a partner in [*or the sole member of*] the said firm of  
 \_\_\_\_\_ [*or as the person carrying on business on his own behalf in*  
 the name of \_\_\_\_\_ ] to pay the sum payable under the said  
 judgment [*or order*], and I make this allegation on the following grounds :

(<sup>3</sup>) State  
 name, resi-  
 dence, and  
 occupation.

(1.) that the said \_\_\_\_\_ has admitted before  
 the Court in the proceedings in which the said judgment [*or*  
*order*] was obtained that he was a partner in [*or the sole member*  
 of] the said firm of \_\_\_\_\_  
 [*or the person carrying on business on his own behalf in the*  
 name of \_\_\_\_\_ ] at the time  
 of the accruing of the cause of action [*or has been adjudged in the*  
 proceedings in which the said judgment [*or order*] was obtained  
 to be liable as a partner in [*or the sole member of*] the said firm  
 of \_\_\_\_\_ [*or as the person*  
 carrying on business on his own behalf in the name of \_\_\_\_\_ ] :

Compare  
 Order XXV.,  
 Rule 11.

[*or* (2) that the said \_\_\_\_\_ was individually served as a  
 partner in [*or the sole member of*] the said firm of \_\_\_\_\_  
 \_\_\_\_\_ [*or as the person carrying on business on his*  
 own behalf in the name of \_\_\_\_\_ ]  
 with the summons in the action in which the said judgment [*or*  
*order*] was obtained, and failed to appear at the trial :]

Compare  
 Order XXV.,  
 Rule 11.

[*or* (3) (*State any other grounds on which the person against whom a  
 judgment summons is sought is alleged to be liable, with the  
 deponent's sources of information and grounds of belief.*)]

(<sup>4</sup>) *Or as the  
 case may be.*

3. The said \_\_\_\_\_  
 now lives at \_\_\_\_\_  
 and there occupies a house [*or shop or rooms*(<sup>4</sup>) \_\_\_\_\_ ]  
 of the yearly rent or value of £ \_\_\_\_\_ .

(<sup>5</sup>) State  
 name in  
 which De-  
 fendants  
 were sued.

(<sup>6</sup>) State  
 what.  
 (<sup>7</sup>) State  
 where, and  
 add any facts  
 showing that  
 the business  
 is profitable.

4. The said firm of (<sup>5</sup>) \_\_\_\_\_  
 [*or the said*(<sup>6</sup>) \_\_\_\_\_ ]  
 carry [*or carries*] on the business of (<sup>6</sup>) \_\_\_\_\_  
 in a (<sup>6</sup>) \_\_\_\_\_ at (<sup>7</sup>) \_\_\_\_\_

(<sup>8</sup>) State  
 name in  
 which De-  
 fendants  
 were sued.  
 (<sup>9</sup>) If separ-  
 ate means are  
 alleged, state  
 any facts  
 showing such  
 means.

5. The said \_\_\_\_\_  
 has [*or has not*] separate means apart from the business of the said (<sup>8</sup>)  
 [*or the said*(<sup>8</sup>) \_\_\_\_\_ ] (<sup>9</sup>).  
 \_\_\_\_\_

6. The said \_\_\_\_\_ is unmarried [*or is married and*  
has \_\_\_\_\_ children, of whom \_\_\_\_\_ work and earn wages]<sup>(10)</sup>

<sup>(10)</sup> If these facts are not known, state that deponent does not know them.

7. I verily believe that the said \_\_\_\_\_ is well able to pay the said sum of £ \_\_\_\_\_ now due and payable under the said judgment [*or order*] [<sup>(11)</sup>and I am duly authorised by the Plaintiff to make this affidavit on his behalf].

<sup>(11)</sup> To be added where Plaintiff does not himself make the affidavit.

8. I apply to the Court for leave to issue a judgment summons against the said \_\_\_\_\_ in respect of the nonpayment of the said sum of £ \_\_\_\_\_.

Sworn at \_\_\_\_\_ in the }  
County of \_\_\_\_\_ this }  
\_\_\_\_\_ day of 19 \_\_\_\_ }  
Before me,

Registrar.

[*or Clerk nominated to take Affidavits.*]

Leave granted [*or refused*].

Judge.

184. [52E., July, 1892.]

JUDGMENT SUMMONS ON JUDGMENT OR ORDER AGAINST A FIRM, OR A PERSON CARRYING ON BUSINESS IN A NAME OTHER THAN HIS OWN.

The Debtors Act, 1869.

No. of Plaintiff

No. of Judgment Summons

32 & 33 Vict.,  
c. 62. s. 5.  
Order XXV.,  
Rules 27, 31.

Address,  
description

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_.

Between

Plaintiff,

and

Defendants.

<sup>(1)</sup> State name, address, and description, as in the original summons, with any amendment made by the Court.

<sup>(1)</sup>

To<sup>(2)</sup>  
of

<sup>(2)</sup> State the name, address, and description of one of the persons alleged to be partners in the firm against whom the judgment or order was obtained, or of the person alleged to be the sole member thereof, or of the person alleged to be carrying on business in a name other than his own.

Whereas the Plaintiff obtained judgment [*or an order*] against the Defendants by and in the name of<sup>(1)</sup> \_\_\_\_\_ above described in this Court [*or in the County Court of \_\_\_\_\_ holden at \_\_\_\_\_ or in the High Court of Justice, or as the case may be*] on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, for the sum of £ \_\_\_\_\_ [and costs] and there is now due and payable under the said judgment [*or order*] from the said<sup>(1)</sup> \_\_\_\_\_ to the said Plaintiff \_\_\_\_\_ the sum of £ \_\_\_\_\_ :

And whereas the said Plaintiff \_\_\_\_\_ has filed an affidavit in this Court, a copy whereof is hereunto annexed, wherein it is alleged that you the above named \_\_\_\_\_ are liable as one of the partners in [*or the sole member of*] the said firm of<sup>(1)</sup> \_\_\_\_\_ [*or as the person carrying on business on your own behalf in the name of*<sup>(1)</sup> \_\_\_\_\_] to pay the sum payable under the said judgment [*or order*] :

You are therefore hereby summoned to appear personally in this Court, at  
[*place where court holden*]

on the                      day of                      , 19    , at the hour of  
in the                      noon, to be examined on oath by the Court touching the  
means you have or have had since the date of the said judgment [*or order*] to  
pay the said sum of £                      now due and payable under the said judgment  
[*or order*]; and also to show cause why you should not be committed to prison  
for default in payment of the said sum, or why a receiving order should  
not be made against you pursuant to sub-section 3 of section 103 of the  
Bankruptcy Act, 1883 :

And take notice, that if you deny that you are liable as one of the partners in  
[*or the sole member of*] the said firm of<sup>(1)</sup>

[*or as the person carrying on business on your own behalf in the name of*(<sup>1</sup>)  
] to pay the sum payable under the said judgment  
[*or order*] you must appear at this Court on the day and at the hour above  
mentioned, and that in default of your so appearing you will be deemed to admit  
your liability as aforesaid to pay the amount due and payable under the said  
judgment [*or order*].

Dated this                      day of                      19    .

Registrar.

	£	s.	d.
Amount remaining due under judgment [ <i>or order</i> ] ... ..			
Costs of this summons ... ..			
Total sum due ... ..			

*For indorsement of service, see Form 34.*

[N.B.—*This Summons is available against one person only, and where an  
order for payment by instalments has been made, part only of which are due,  
must be modified in accordance with the facts.*]

185. [52B., Feb., 1892.]

#### AFFIDAVIT OF SERVICE OF JUDGMENT SUMMONS.

Order XXV.,  
Rules 31, 33.

I, A.B.,                      of [*state name, residence, and occupation*] the  
above-named Plaintiff [*or clerk or servant to the above-named Plaintiff, or  
solicitor to the above-named Plaintiff, or clerk to Mr.*  
of                      solicitor to the above-named Plaintiff *or as the  
case may be*], make oath and say :—

That I did on the                      day of                      19    , at [*state  
the place of service exactly, as 22, King Street, Croydon, the residence of  
the above-named Defendant, C.D.,                      or the place of business*]

of *E.F.* the employer of the above-named Defendant, *C.D.*,  
 ] duly serve the above-named Defendant, *C.D.*,  
 with a judgment summons, a true copy whereof is  
 hereunto annexed, marked A., [*add, if so, with copy of affidavit annexed*]  
 by delivering the same personally to the said Defendant.

[*Add, if travelling expenses paid or tendered with judgment summons, That*  
 I paid [*or tendered*] to the said , at the same time and  
 place, the sum of for his expenses.]

[*Indorse the copy judgment summons thus:—*This paper, marked A., is  
 the paper referred to in the annexed affidavit].

186. [54.]

ORDER ON JUDGMENT SUMMONS ALTERING ORIGINAL JUDGMENT  
 OR ORDER.

The Debtors Act, 1869.

In the [*title of Court issuing summons*].

32 & 33 Vict.  
 c. 62. s. 5.  
 Order XXV.,  
 Rule 40.

No. of Plaintiff  
 No. of Judgment Summons

Between

*A.B.* Plaintiff,  
 [*Address*  
*Description*]

and

*C.D.* Defendant.  
 [*Present address, description, and if*  
*known, place of employment.*]

Whereas the Plaintiff obtained a judgment [*or an order*] against the  
 Defendant in this Court [*or in the County Court of* ] holden at  
 ] on the day of , 19 , for the payment  
 of the sum of £ , together with £ for costs, and in payment  
 thereof [*or of* ] part thereof] the Defendant has made default :

[*or, Whereas the Plaintiff obtained a judgment [or an order] against the*  
 Defendant in the High Court of Justice [*or as the case may be*] on the  
 day of , for the sum of £ , and there is now  
 due and payable under the said judgment [*or order*] the sum of ] :

And whereas a summons was, at the instance of the Plaintiff, duly issued  
 out of this Court, by which the Defendant <sup>(1)</sup> was  
 required to appear personally at this Court on the day of , 19 ,  
 to be examined on oath touching the means he had then or had had since  
 the date of the said judgment [*or order*] to pay the said sum of £ ,  
 which summons has been proved to this Court to have been personally and  
 duly served on the said Defendant :

(1) Name the  
 Defendant  
 against whom  
 the judgment  
 summons  
 was issued.





out of this Court, by which the Defendant <sup>(1)</sup> was required to appear personally at this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to be examined on oath touching the means he had then or had had since the date of the said judgment [or order] to satisfy the sum then due and payable in pursuance of the said judgment [or order], and to show cause why he should not be committed to prison for such default, which summons has been proved to this Court to have been personally and duly served on the said Defendant :

(1) Name the Defendant against whom judgment summons was issued.

And whereas, at the hearing of the said summons, it has now been proved to the satisfaction of the Court that the said Defendant now has [or has had since the date of the said judgment [or order] ], the means to pay the sum due and payable in pursuance of the said judgment [or order], and refuses [or neglects] [or has refused or neglected] to pay the same, and the said Defendant has shown no cause why he should not be committed to prison :

Now, therefore, it is ordered that for such default as aforesaid the said Defendant [naming him] shall be committed to prison for \_\_\_\_\_ days, unless he shall sooner pay the sum stated below as that upon payment of which he is to be discharged, or shall file such affidavit as is mentioned in Order XXV., Rule 43, of the County Court Rules.

These are therefore to require you the said High Bailiff, Bailiffs, and others, to take the Defendant [naming him] and to deliver him to the Governor of the [prison used by the Court], and you the said Governor to receive the said Defendant, and him safely keep in the said prison for \_\_\_\_\_ days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under the seal of the Court \_\_\_\_\_ this [insert date of order] of \_\_\_\_\_ 19\_\_\_\_.

Registrar.

	£	s.	d.
Sum in payment of which defendant had made default at time of issue of judgment summons ... ..			
Fees and costs on issue and hearing of judgment summons ... ..			
Deduct amount paid into court since issue of judgment summons ... ..			
Poundage on this order ... ..			
Sum on payment of which the debtor is to be discharged ... ..			

This order remains in force for one year only from the date hereof, unless such time is extended under Order XXV., Rule 46.

Add when so ordered—The time during which this order is to remain in force was on the \_\_\_\_\_ day of \_\_\_\_\_ extended by order of the Judge to the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Registrar.

Whereas the Plaintiff obtained a judgment [*or an order*] against the Defendant in the High Court of Justice [*as the case may be*] on the day of \_\_\_\_\_, 19\_\_\_\_, for the sum of £\_\_\_\_\_, and there is now due and payable under the said judgment [*or order*] the sum of \_\_\_\_\_;

And whereas a summons was, at the instance of the Plaintiff, duly issued out of this Court, by which the Defendant (1) was required to appear personally at this Court on the                      day of                      , 19                      , to be examined on oath touching the means he had then or had had since the date of the said judgment [*or order*] to pay the said sum, in payment of which he had made default, and to show cause why he should not be committed to prison for such default, which summons has been proved to this Court to have been personally and duly served on the said Defendant :

(1) Name the Defendant against whom judgment summons was issued.

And whereas, at the hearing of the said summons, it has now been proved to the satisfaction of the Court that the said Defendant now has [*or has had since the date of the said judgment [or order]*] the means to pay the sum due and payable under the said judgment [*or order*] and refuses [*or neglects*] [*or has refused or neglected*] to pay the same, and the said Defendant has shown no cause why he should not be committed to prison :

Now, therefore, it is ordered that for such default as aforesaid the said Defendant                      [*naming him*] shall be committed to prison for                      days, unless he shall sooner pay the sum stated below as that upon payment of which he is to be discharged, or shall file such affidavit as is mentioned in Order XXV., Rule 43, of the County Court Rules.

These are therefore to require you the said High Bailiff, Bailiffs, and others, to take the Defendant                      [*naming him*] and to deliver him to the Governor of the [*prison used by the Court*], and you the said Governor to receive the said Defendant, and him safely keep in the said prison for                      days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under the seal of the Court this [*insert date of order*]                      day of                      , 19                      .

Registrar.

	£	s.	d.
Amount remaining due under judgment [ <i>or order</i> ] at time of issue of judgment summons ... ..			
Fees and costs on issue and hearing of judgment summons ... ..			
Deduct amount paid into court since issue of judgment summons ... ..			
Poundage on this order ... ..			
Sum on payment of which the debtor is to be discharged ... ..			

This order remains in force for one year only from the date hereof, unless such time is extended under Order XXV., Rule 46.

*Add when so ordered:* The time during which this order is to remain in force was on the                      day of                      extended by order of the Judge to the                      day of                      , 19                      .

Registrar.

190. [New.]

ORDER ON JUDGMENT SUMMONS ON A JUDGMENT OR ORDER AGAINST A FIRM, OR A PERSON CARRYING ON BUSINESS IN A NAME OTHER THAN HIS OWN, ALTERING THE ORIGINAL JUDGMENT OR ORDER.

32 & 33 Vict.  
c. 62, s. 5.  
Order XXV.,  
Rule 40.

The Debtors Act, 1869.

No. of Plaint

No. of Judgment Summons

In the County Court of                      holden at                      .  
Address,                      Between                      Plaintiff,  
description.                      and                      Defendants.  
(<sup>1</sup>) State name, (1)  
address, and  
description,  
as in the  
original  
summons,  
with any  
amendment  
made by the  
Court.

Whereas the Plaintiff obtained a judgment [*or* an order] against the Defendants by and in the name of                      above described in this Court [*or* in the County Court of                      holden at                      *or* in the High Court of Justice, *or as the case may be*] on the                      day of                      , 19                      , for the sum of £                      [and costs], and there is now due and payable under the said judgment [*or* order] from the said Defendants to the said Plaintiff the sum of £                      :

And whereas the said Plaintiff having filed an affidavit in this Court, wherein it was alleged that(<sup>2</sup>)                      was liable as one of the partners in [*or* the sole member of] the said firm of                      [*or* as the person carrying on business on his own behalf in the name of                      ] to pay the sum payable under the said judgment [*or* order], a summons was, at the instance of the said Plaintiff, duly issued out of this Court, by which the said                      was required to appear personally at this Court on                      the                      day of                      , 19                      , to be examined on oath touching the means he had then or had had since the date of the said judgment [*or* order] to pay the said sum of £                      , and notice was thereby given to the said                      that if he denied that he was liable as one of the partners in [*or* the sole member of] the said firm of                      [*or* as the person carrying on business on his own behalf in the name of                      ] to pay the sum payable under the said

(<sup>2</sup>) State the name, address, and description of one of the persons alleged to be partners in the firm against whom the judgment or order was obtained, or of the person alleged to be the sole member thereof, or of the person alleged to be carrying on business in a name other than his own.

judgment [*or order*] he must appear at this Court on the day above mentioned, and that in default of his so appearing he would be deemed to admit his liability as aforesaid to pay the amount due and payable under the said judgment [*or order*]:

And whereas the said summons came on for hearing this day, and the said summons has been proved to this Court to have been personally and duly served on the said :

And whereas the said  
did not appear at the hearing of the said summons :

[*or And* whereas the said  
appeared at the hearing of the said summons, and admitted his liability as one of the partners in [*or the sole member of*] the said firm of  
[*or as the person carrying on business on his own behalf in the name of*  
] to pay the sum payable under the said  
judgment [*or order*]:

[*or And* whereas the said  
appeared at the hearing of the said summons, and denied that he was liable as one of the partners in [*or the sole member of*] the said firm of  
[*or as the person carrying on business on his own behalf in the name of*  
] to pay the sum payable under the said judgment  
[*or order*], but proof has been made to the satisfaction of the Court that the said  
is liable as one of the partners in [*or the sole member of*] the said firm of  
[*or as the person carrying on business on his own behalf in the name of*  
] to pay the said sum :

Acknowledgment of  
payment into Court.

Date.	£	s.	d.	Received by

It is ordered, that the said

do pay the amount still due on the said judgment [*or order*], and the costs of the said summons and its hearing, as stated at the foot of this order, to the Registrar of this Court, by instalments of £                      for every  
days; the first payment to be made on the  
day of                      19 .

Given under the seal of the Court, this                      day of                      19 .

Registrar.

	£	s.	d.
Amount remaining due under judgment [ <i>or order</i> ] .. .. .			
Costs of judgment summons and its hearing ... .. .			

191. [New.]

ORDER OF COMMITMENT ON A JUDGMENT SUMMONS ON A JUDGMENT OR  
ORDER AGAINST A FIRM, OR A PERSON CARRYING ON BUSINESS IN A  
NAME OTHER THAN HIS OWN.

32 & 33 Vict.  
c. 62. s. 5.  
Order XXV.,  
Rule 46.

## The Debtors Act, 1869.

No. of Plaintiff

No. of Judgment Summons

In the *[Title of Court ordering Commitment]*.

Address,  
description.

Between .

Plaintiff,

(1) State name, address, and description, as in the original summons, with any amendment made by the Courts.

and

**Defendants.**

(1)

To the High Bailiff and others the Bailiffs of the said Court, and all Peace Officers within the jurisdiction of the said Court, and to the Governor of the [*prison used by the Court*].

Whereas the Plaintiff obtained a judgment [*or* an order] against the Defendants by and in the name of

above described in this Court [*or* in the County Court of \_\_\_\_\_ holden at  
\_\_\_\_\_ or in the High Court of Justice, *or as the case may be*]

on the            day of                          , 19         , for the sum of £                          [and costs],  
and there is now due and payable under the said judgment [*or* order] from  
the said Defendants to the said Plaintiff the sum of £                          :

And whereas the said Plaintiff having filed an affidavit in this Court, wherein it was alleged that (2)

(2) State the name, address, and description of one of the persons alleged to be partners in the firm against whom the judgment or order was obtained, or of the person alleged to be the sole member thereof, or of the person alleged to be carrying on business in a name other than his own.

was liable as one of the partners in [or the sole member of] the said firm of [or as the person carrying on business on his own behalf in the name of

] to pay the sum payable under the said judgment [*or order*]  
a summons was, at the instance of the said Plaintiff, duly issued out of this  
Court, by which the said

was required to appear personally at this Court on                      the               day of  
19    , to be examined on oath touching the means he had then or

had had since the date of the said judgment [*or order*] to pay the sum due and payable under the said judgment [*or order*], and also to show cause why he should not be committed to prison for default in payment of the said sum, and notice was thereby given to the said

that if he denied that he was liable as one of the partners in [or the sole member of] the said firm of

[or as the person carrying on business on his own behalf in the name of

] to pay the sum payable under the said judgment [or order] he must appear at this Court on the day above mentioned, and that in default of his so appearing he would be deemed to admit his liability as aforesaid to pay the amount due and payable under the said judgment [or order]:

And whereas the said summons came on for hearing this day, and the said summons has been proved to this Court to have been personally and duly served on the said

:

And whereas the said  
did not appear at the hearing of the said summons :

[*or* And whereas the said  
appeared at the hearing of the said summons, and admitted his liability as one of the partners in [*or* the sole member of] the said firm of

[*or* as the person carrying on business on his own behalf in the name of

] to pay the sum payable under the said judgment [*or* order] :

[*or* And whereas the said  
appeared at the hearing of the said summons, and denied that he was liable as one of the partners in [*or* the sole member of] the said firm of

[*or* as the person carrying on business on his own behalf in the name of

] to pay the sum payable under the said judgment [*or* order],  
but proof has been made to the satisfaction of the Court that the said  
is liable as one of the partners in [*or* the sole member of] the said firm of

[*or* as the person carrying on business on his own behalf in the name of  
] to pay the said sum] :

And whereas at the hearing of the said summons it has now been proved to the satisfaction of the Court that the said

now has [*or* has had since the date of the said judgment [*or* order] ] the means to pay the sum due and payable under the said judgment [*or* order], and refuses [*or* neglects] [*or* has refused *or* neglected] to pay the same, and the said

has shown no cause why he should not be committed to prison :

Now, therefore, it is ordered that for such default as aforesaid the said  
shall be committed to prison for  
days, unless he shall sooner pay the sum stated below as that upon payment of which he is to be discharged, or shall file such affidavit as is mentioned in Order XXV., Rule 43, of the County Court Rules.

These are therefore to require you the said High Bailiff, Bailiffs, and others, to take the said

and to deliver him to the Governor of the [*prison used by the Court*], and you the said Governor to receive the said

and him safely keep in the said prison for days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under the seal of the Court, this [*insert date of order*] day of 19 .

Registrar.

	£	s.	d.
Amount remaining due under judgment [ <i>or</i> order] at time of issue of judgment summons ... ..			
Fees and costs on issue and hearing of judgment summons ... ..			
Deduct amount paid into court since issue of judgment summons ... ..			
Poundage on this order ... ..			
Sum on payment of which the debtor is to be discharged ... ..			

This order remains in force for one year only from the date hereof, unless such time is extended under Order XXV., Rule 46.

*Add when so ordered:* The time during which this order is to remain in force was on the            day of            extended by order of the Judge to the            day of            19           

Registrar.

191A. [New.]

Order XXV., NOTICE TO DEBTOR WHERE ORDER OF COMMITMENT MADE, BUT DIRECTED TO BE SUSPENDED.

The Debtors Act, 1869.

No. of plaint.

No. of judgment summons.

In the [*Title of Court ordering Commitment.*]

Between

A.B.

Plaintiff,

and

C.D.

Defendant.

Take notice, that an order of commitment for your imprisonment for            days was this day made by the judge of this court.

The order will not be put in force if the sum stated below be paid into court on or before the            day of           , 19            [*or* by instalments of £            for every            days, the first payment to be made on the            day of           , 19            ].

In default of payment within the time above mentioned [*or* of any instalment] an order may issue for your imprisonment for the period above mentioned



unless you shall sooner pay the whole amount remaining due under the said order, and the poundage on the order.

Dated this                      day of                      19                      .

Registrar.

£ s. d.

Amount payable under the order

To the judgment debtor [*naming him*].

### 192. [58.]

#### AFFIDAVIT UNDER ORDER XXV., RULE 43.

The Debtors Act, 1869.

Order XXV.,  
Rules 43, 44.

In the County Court of                      holden at

*A.B.*

Between

Plaintiff,

and

*C.D.*

Defendant.

I, *C.D.* of                      make oath  
and say,—

1. That under the Debtors Act, 1869, an order for my commitment was made by the above Court [*or the County Court of*                      holden at                      ], for making default in payment of £                      , due from me in pursuance of a judgment [*or an order*] of the [*here insert the Court in which the judgment or order was given or made*].

2. That on the                      day of                      19                      , I was adjudicated a bankrupt by the [*here insert the Court by which adjudication was made*].

[*or That on the*                      day of                      19                      , a receiving order was made for the protection of my estate by the [*here insert the Court by which the receiving order was made*].

3. That the receiving order [*or the order of adjudication*] was published in the *London Gazette* on the                      day of                      19                      .

4. That the debt in respect of which the above judgment [*or order*] was given [*or made*] was provable under the bankruptcy.

[*or*

2. That on the                      day of                      19                      , an order for the administration of my estate was made by the [*here insert the Court by which the order was made*] under the provisions of section 122 of the Bankruptcy Act, 1883, as shown by the certificate of the Registrar of that Court hereto annexed.

3. That the debt in respect of which the above judgment [*or order*] was given [*or made*] was due at the date of the said order for administration, and has been notified to the said Court, as appears from the said certificate].

Sworn at

*C.D.*

193.

## CERTIFICATE UNDER ORDER XXV., RULE 45.

Order XXV.,  
Rule 45.

The Debtors Act, 1869.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_.

I hereby certify that an order for the administration of the estate of *C.D.* of \_\_\_\_\_ [*here insert address and description of debtor*] was made by this Court under the provisions of section 122 of the Bankruptcy Act, 1883, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that a debt of £ \_\_\_\_\_ has been notified by the said *C.D.* \_\_\_\_\_ to the Court as being due from him at the date of the said order to [*here insert the name, address, and description of the creditor whose name the debtor wishes to be inserted*].

Registrar.

194. [60.]

## CERTIFICATE BY REGISTRAR FOR DISCHARGE OF JUDGMENT DEBTOR.

Order XXV.,  
Rule 44.

The Debtors Act, 1869.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_.

*A.B.*

Between

Plaintiff,

and

*C.D.*

Defendant.

I hereby certify that the Defendant, who was committed to your custody by virtue of an order of commitment under the seal of this Court [*or* the County Court of \_\_\_\_\_ holden at \_\_\_\_\_], bearing date the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, has filed an affidavit in this Court, stating that [*here insert statement in affidavit*]; and that the Defendant may, in respect of such order, be forthwith discharged out of your custody.

Given under the seal of the Court this \_\_\_\_\_

day of \_\_\_\_\_

19\_\_\_\_.

Registrar.

To the Governor of the \_\_\_\_\_

[*prison used by the Court.*]

195. [61.]

## CERTIFICATE OF PAYMENT BY PRISONER.

The Debtors Act, 1869.

(Heading as in Form 194.)

Order XXV.,  
Rules 49, 51.

I hereby certify that the Defendant, who was committed to my [*or your*] custody by virtue of an order of commitment under the seal of this Court [*or* of the County Court of \_\_\_\_\_ holden at \_\_\_\_\_], bearing date the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, has paid and satisfied the sum of \_\_\_\_\_

money for the non-payment whereof he was so committed, together with all costs due and payable by him in respect thereof; [*add, where the certificate is sent by the Registrar, and that the Defendant may, in respect of such order, be forthwith discharged out of your custody*].

Dated [*or given under the seal of the Court*] this \_\_\_\_\_ day  
of \_\_\_\_\_ 19 .

Governor of \_\_\_\_\_ [*or Registrar of*  
the County Court of \_\_\_\_\_  
holden at \_\_\_\_\_ ].

To the Governor of \_\_\_\_\_ [*or the Registrar*  
of the County Court of \_\_\_\_\_  
holden at \_\_\_\_\_ ].

---

196. [62.]

REQUEST BY CREDITOR FOR DISCHARGE OF PRISONER.

The Debtors Act, 1869.

(*Heading as in Form 194.*)

I, the undersigned *A.B.*, \_\_\_\_\_ the Plaintiff in this action, request that \_\_\_\_\_ Order XXV.,  
the Defendant *C.D.*, \_\_\_\_\_ if still in custody, may be discharged. Rule 50.

*A.B.*

To the Registrar.

---

197. [63.]

CERTIFICATE FOR DISCHARGE OF PRISONER AT REQUEST OF CREDITOR.

The Debtors Act, 1869.

(*Heading as in Form 194.*)

I hereby certify that *C.D.*, \_\_\_\_\_ who was committed to your custody \_\_\_\_\_ Order XXV.,  
by virtue of an order of commitment under the seal of this Court [*or of the* \_\_\_\_\_ Rule 50.  
County Court of \_\_\_\_\_ holden at \_\_\_\_\_ ] bearing date the  
day of \_\_\_\_\_ 19 , may, in respect of such order, be forthwith discharged  
out of your custody.

Registrar of the County Court of \_\_\_\_\_  
holden at \_\_\_\_\_ .

To the Governor of \_\_\_\_\_

---

198. [155A., Feb., 1892.]

## AFFIDAVIT FOR LEAVE TO SUMMON GARNISHEE.

Order  
XXVI.,  
Rules 1, 2.

I, *A.B.*, of in the county of  
 [or I, *C.D.*, of &c., solicitor to] the above-named  
 Plaintiff, make oath and say :—

1. That I [or *A.B.*] on the day of recovered judgment [or obtained an order] in the County Court of holden at , in this action [or matter] against the above-named Defendant for the sum of £ , for debt [or damages] and costs [or for payment of the sum of £ and £ for costs].

2. That the said judgment is still wholly unsatisfied [or is still unsatisfied as to the sum of £ ].

[Or 2. That the whole [or £ part] of the sum payable under the said order is still unsatisfied.]

3. That *M.N.*, of in the county of is indebted to the Defendant in the sum of £ [Add, if so, for payment of which sum the Defendant recovered judgment [or obtained an order] in this Court against the said *M.N.* on the day of 19 , and by the said judgment [or order] it was ordered that the said *M.N.* should pay the said sum of £ to the Registrar of this Court on the day of 19 [or by instalments of for every days] and the sum of £ remains due and unpaid under the said judgment [or order].]

4. That the said *M.N.* resides [or carries on business] within the district of this Court [or that the cause of action between the said Defendant and the said *M.N.* arose wholly or in part within the district of this Court, or that the said *M.N.* dwelt [or carried on business] within the district of this Court within six calendar months of this the day of 19 ].

Sworn, &c.

199. [156A., Feb., 1892.]

## SUMMONS TO GARNISHEE.

		No. of Plaintiff
<i>A.B.</i>	Between	Plaintiff,
(Address and description).		
	and	
<i>C.D.</i>		Defendant,
(Address and description).		
	and	
<i>M.N.</i>		Garnishee.
(Address and Description).		

Whereas the Plaintiff at a Court holden at on the day of 19 , recovered judgment [or obtained an order] against *C.D.*, of [name, address, and description] for the sum of for

Order  
XXVI.,  
Rules 1, 2.

debt [*or damages*] and costs, [*or for payment of the sum of £*                      and  
£                      for costs] which judgment [*or order*] remains unsatisfied as to  
the sum of £                      :

And whereas the Plaintiff has filed an affidavit stating that you are indebted  
to the said *C.D.*                      in the sum of £                      :

You are hereby summoned to appear at a Court to be holden at  
on                      the                      day of                      , 19                      , at the hour of                      in the  
noon, to show cause why an order should not be made upon you for the  
payment to the Plaintiff of the amount of the debts due and owing and accruing  
from you to the said *C.D.*,                      or so much thereof as will satisfy the  
debt due under the said judgment [*or order*] and the Plaintiff's costs of this  
proceeding :

And take notice, that from and after the service of this summons upon you  
all such debts are attached to answer the said judgment [*or order*] :

And further take notice, that if you pay to the Registrar of this Court the  
amount of such debts, or so much thereof as will satisfy the debt due under the  
said judgment [*or order*] [and the fees and solicitor's costs indorsed on this  
summons], five clear days before the day upon which you are required to appear,  
you will incur no further costs.

Dated this                      day of                      19                      .

To [*the Garnishee*].

Registrar.

	£	s.	d.
Amount remaining due under judgment [ <i>or order</i> ] ... ..			
Costs of this summons ... ..			
Solicitor's costs ... ..			
Total amount ... ..	£		

This summons is issued at the instance of                      , the above-  
named Plaintiff [*or solicitor for the above-named Plaintiff*], whose address for  
service is

[*For Notices to Plaintiff of payment into Court by Garnishee, see Forms 73, 74.*]

## 200. [New.]

### NOTICE TO JUDGMENT DEBTOR OF PAYMENT INTO COURT BY GARNISHEE.

[*Heading as in Garnishee Summons.*]

Take notice, that the summons, a copy of which is hereunto annexed, was  
issued on the                      day of                      , and that *M.N.*,                      the                      Order  
Garnishee named in the said summons, has paid into Court the sum of £                      .                      ~~XXVI.~~  
Rule 6(2)(b).

And further take notice, that the said sum of £                      will be paid out to  
the Plaintiff *A.B.*                      unless you appear at this Court on                      the  
day of                      and show cause to the contrary.

Dated this                      day of                      19                      .

To the above-named Defendant *C.D.*

Registrar.

201. [157A., Feb., 1892.]

## JUDGMENT ON GARNISHEE SUMMONS.

[Heading as in Garnishee Summons.]

Order  
XXVI.,  
Rules 7, 8.

Whereas the Plaintiff at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, recovered a judgment [or obtained an order] against C.D. of \_\_\_\_\_ for the sum of £ \_\_\_\_\_ for debt [or damages] and costs, [or for the payment of the sum of £ \_\_\_\_\_ and £ \_\_\_\_\_ for costs], which judgment [or order] remains unsatisfied as to the sum of £ \_\_\_\_\_ :

And whereas the Plaintiff having filed an affidavit stating that the above-named M.N. \_\_\_\_\_ was indebted to the said C.D., \_\_\_\_\_ in the sum of £ \_\_\_\_\_, the said M.N. \_\_\_\_\_ was summoned to show cause why he should not be ordered to pay to the Plaintiff the amount of the debts due and owing and accruing from him to the said C.D., \_\_\_\_\_ or so much thereof as would satisfy the debt due under the said judgment [or order] and the Plaintiff's costs of this proceeding :

And whereas the said M.N. \_\_\_\_\_ has failed to appear before the Court this day [or has appeared before the Court this day and has failed to show cause why he should not be ordered to pay such debts [or has shown sufficient cause why he should not be ordered to pay such debts] to the Plaintiff :

*If the Plaintiff is allowed his costs of the garnishee proceedings out of the debts found due from the Garnishee to the Defendant, and the amount of such debts, after deducting any costs which the Garnishee is allowed to deduct from the amount due from him to the Defendant, is not sufficient to satisfy such costs and the amount due under the judgment or order obtained by the Plaintiff against the Defendant, proceed as follows :—*

It is ordered that the Plaintiff do recover against the said M.N. \_\_\_\_\_ the sum of £ \_\_\_\_\_, being the amount of the debts found due from the said M.N. \_\_\_\_\_ to the said C.D. \_\_\_\_\_, [add, if so ordered, after deducting from such amount the sum of \_\_\_\_\_ which is hereby allowed to be deducted by the said M.N., \_\_\_\_\_ from the amount of such debts for his costs of this proceeding], and that the sum of £ \_\_\_\_\_ so recovered be applied first in payment of the costs of the Plaintiff of this proceeding, amounting to the sum of £ \_\_\_\_\_, and secondly so far as the same will extend in satisfaction of the debt due under the said judgment [or order] obtained by the Plaintiff against the said C.D. \_\_\_\_\_

*[or, If the Plaintiff is allowed his costs out of the debts, and the amount of such debts, after deducting any costs which the Garnishee is allowed to deduct from the amount due from him to the Defendant, is more than sufficient to satisfy such costs and the amount due under the judgment or order, proceed as follows :—*

It is ordered that the Plaintiff do recover against the said M.N. \_\_\_\_\_ the sum of £ \_\_\_\_\_, being so much of the amount of the debts found due from the said M.N. \_\_\_\_\_ to the said C.D. \_\_\_\_\_ [add, if so ordered, after deducting from such amount the sum of \_\_\_\_\_ which is hereby allowed to be deducted by the said M.N., \_\_\_\_\_ from the amount of such debts for his costs of this proceeding], as will be sufficient to satisfy the costs of the Plaintiff of this proceeding, amounting to the sum of £ \_\_\_\_\_,

and the debt due under the said judgment [*or order*] obtained by the Plaintiff against the said *C.D.* .]

[*or, if the Garnishee is ordered to pay costs personally, proceed as follows :—*

It is ordered that the Plaintiff do recover against the said *M.N.* the sum of £ , being the amount of the debts found due from the said *M.N.* to the said *C.D.* [*or, if such debts exceed the debt due under the judgment or order, being so much of the amount of the debts found due from the said M.N. to the said C.D. as will be sufficient to satisfy the debt due under the said judgment [or order] obtained by the Plaintiff against the said C.D.* ].

And it is further ordered that the Plaintiff do recover against the said *M.N.* the sum of £ for his costs of this proceeding, such last mentioned sum to be paid by the said *M.N.* personally.]

[*or, if judgment is given for the Garnishee, proceed as follows :—*

It is ordered that judgment be entered in this proceeding for the said *M.N.* and, if the Plaintiff is ordered to pay costs, add, and that the Plaintiff do pay the sum of £ for the costs of the said *M.N.* of this proceeding].

*And proceed as follows :—*

And it is ordered that the said *M.N.* do pay the said sum of £ [*or the said sums of £ and £ amounting together to the sum of £* ] [*or that the plaintiff do pay the said sum of £* ] to the Registrar of this Court on the day of 19 . [*or by instalments of £ for every days, the first instalment to be paid on the day of 19 .*]

[*If the Garnishee is allowed to deduct any costs from the debts due from him to the Defendant, add :—*

And it is further ordered that the said *M.N.* be allowed the sum of £ for his costs of this proceeding, and the said sum is hereby allowed to him in part discharge of the debts due from him to the said *C.D.* .]

## 202. [158.]

### EXECUTION AGAINST GARNISHEE.

[*Heading as in Garnishee Summons.*]

Whereas on the day of 19 , the above-named Plaintiff *Order XXVI,*  
*A.B.* obtained a judgment in this Court against the above- *Rule 7.*  
 named *M.N.*, whereby it was ordered that the Plaintiff should  
 recover against the said *M.N.* the sum of £ being, &c.  
 [*recite the judgment entered, according to Form 201*] :

and it was thereupon ordered that the said *M.N.* should pay the said  
 sum of £ [*or the said sums of £ and £* ,  
 amounting together to the sum of £ , to the Registrar on the day  
 of [*or by instalments of for every days*] :

And whereas default has been made in payment according to the said order :  
 These are therefore [*the same as in ordinary executions*].

203. [178.]

## NOTICE OF CLAIM TO GOODS TAKEN IN EXECUTION.

Order  
XXVII.,  
Rule 1.

Take notice, that *E.F.* of ,  
has claimed the goods [*or certain goods*] [*where only certain goods are claimed here enumerate them*] taken in execution by me under the warrant of execution issued in this action. If you admit the title of the said *E.F.* to the said goods, and give notice thereof to me by return of post, you will not be liable for any costs incurred after the receipt by me of your notice.

Dated, &amp;c.

High Bailiff.

To [*the Execution Creditor.*]

204. [179.]

## NOTICE BY EXECUTION CREDITOR OF ADMISSION OF TITLE OF CLAIMANT.

Order  
XXVII.,  
Rule 1 (2).

Take notice, that I admit the title of *E.F.* to the goods seized by you under the execution issued under the judgment in this action.

Execution Creditor.

To the High Bailiff.

205. [179A., April, 1895.]

NOTICE TO CLAIMANT SETTING UP CLAIM TO GOODS TAKEN IN  
EXECUTION TO MAKE DEPOSIT OR GIVE SECURITY.[*Heading as in next Form.*]51 & 52 Vict.  
c. 43. s. 156.  
Order  
XXVII.  
Rule 1 (3).

Whereas you, *E.F.*, have claimed the goods [*or certain goods*] [*where only certain goods are claimed here enumerate them*] taken in execution by me under the warrant of execution issued in this action :

Take notice, that you are hereby required, in accordance with section 156 of the County Courts Act, 1888, either—

- (1) to deposit with me the amount of the value of the goods so claimed by you, such value to be fixed by appraisement in case of dispute, to be by me paid into Court to abide the decision of the Judge upon your claim ; *or*
- (2) to deposit with me the costs of keeping possession of such goods until such decision can be obtained ; *or*
- (3) to give me security by bond with sureties according to section 108 of the County Courts Act, 1888, and Order XXIX. of the County Court Rules, for the value of the goods so claimed by you ;

And further take notice, that in default of your making deposit or giving security the goods will be sold as if no such claim had been made by you, and the proceeds paid into Court to abide the decision of the Judge.

High Bailiff.

To



206. [182A., April, 1895.]

## INTERPLEADER SUMMONS TO EXECUTION CREDITOR.

In the County Court of

holden at

No. of Plaintiff

Order  
XXVII.,  
Rule 3,

Between

A.B.

Plaintiff,

and

C.D.

Defendant,

and

E.F.

Claimant.

Whereas [*here insert the name, address, and description of claimant, so far as is then known*] has made a claim to [certain goods and chattels [*or the proceeds of sale* [*or value*] of certain goods and chattels] taken in execution under process issuing out of this Court at your instance [*or certain rent alleged to be due to him in respect of and issuing out of the premises upon which certain goods and chattels were taken in execution under process issuing out of this Court at your instance*]:

You are therefore hereby summoned to appear at a Court to be holden at  
on the day of , 19 , at the  
hour of in the noon, when the said claim will be adjudicated  
upon, and such order made thereupon as to the Court shall seem fit.

Dated this day of , 19 .

Registrar

To [*the Execution Creditor*].

NOTE.—*The Claimant is called upon, five clear days at least before the day of hearing, to deliver to the High Bailiff, or leave at the office of the Registrar, two copies of the particulars of his claim, and the High Bailiff is required to forthwith send by post to you one of the copies of such particulars.*

207. [183A., April, 1895.]

## INTERPLEADER SUMMONS TO CLAIMANT SETTING UP CLAIM TO GOODS OR PROCEEDS THEREOF.

[*Heading as in Form 206.*][*Name, address, and description of Claimant.*]

You are hereby summoned to appear at a Court to be holden at  
on the day of , 19 , at the hour of in the  
noon, to support a claim made by you to certain goods and chattels [*or to the proceeds of sale* [*or value*] of certain goods and chattels] taken in execution under process issuing out of this Court at the instance of [*the Execution Creditor*]; and in default of your then establishing such claim the said goods and chattels will then be sold and the proceeds thereof paid over [*or the said proceeds of sale* [*or value*] will be paid over] according to the exigency of the said process;

Order  
XXVII.  
Rule 3.

And take notice, that you are hereby required, five clear days at least before the said day, to deliver to the High Bailiff, or leave at my office, two copies of the particulars of the goods and chattels which [*or* the proceeds [*or* value] whereof] are claimed by you, and of the grounds of your claim; and in such particulars you shall set forth fully your name, address, and description; and take notice, that in the event of your not giving such particulars as aforesaid your claim will not be heard by the Court.

To [*the Claimant above named*].

208. [184A., April, 1895.]

INTERPLEADER SUMMONS TO CLAIMANT SETTING UP CLAIM TO RENT IN RESPECT OF THE PREMISES UPON WHICH EXECUTION WAS LEVIED.

[*Heading as in Form 206.*]

[*Name, address, and description of Claimant.*]

Order  
XXVII.,  
Rule 3.

You are hereby summoned to appear at a Court to be holden at on the day of , 19 , at the hour of in the noon, to support a claim made by you to certain rent alleged by you to be due to you in respect of and issuing out of certain premises upon which certain goods and chattels were taken in execution under process issuing out of this Court at the instance of [*the Execution Creditor*]; and in default of your then establishing such claim the said goods and chattels will then be sold, and the proceeds thereof paid over according to the exigency of the said process [*or if such goods and chattels shall have been then sold or the value thereof deposited in Court, then the proceeds of such sale or the amount deposited will be paid over according to the exigency of the said process*];

And take notice, that you are hereby required, five clear days at least before the said day, to deliver to the High Bailiff, or leave at my office, two copies of the particulars of the amount of the rent claimed by you, and of the period for which and the premises in respect of which you claim such rent, and of the grounds of your claim; and in such particulars you shall set forth fully your name, address, and description; and take notice, that in the event of your not giving such particulars as aforesaid your claim will not be heard by the Court.

To [*the Claimant above named*].

209. [185A., April, 1895.]

INTERPLEADER SUMMONS TO EXECUTION CREDITOR AND HIGH BAILIFF, WHERE CLAIMANT CLAIMS DAMAGES AS WELL AS THE GOODS SEIZED.

Order  
XXVII.,  
Rule 3.

In the County Court of

holden at

No. of Plaintiff

Between

A.B.

Plaintiff,

and

C.D.

Defendant,

and between

E.F.

Claimant,

and

[*the Execution Creditor*] and the High Bailiff of this Court, Respondents.

Whereas [*name, address, and description of Claimant*], has made a claim to certain goods and chattels [*or to the proceeds of sale [or value] of certain goods and chattels*] taken in execution under process issuing out of this Court at your instance, and has also claimed from you and from the High Bailiff of this Court the sum of £ \_\_\_\_\_ for damages arising out of the said execution :

You and the High Bailiff are therefore hereby summoned to appear at a Court to be holden at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, when the said claim, both as to the said goods and chattels [*or* the proceeds of sale [*or* value] of the said goods and chattels], and as to the said damages, will be adjudicated upon, and such order made thereupon as to the Court shall seem fit.

To [*the Execution Creditor*] and to  
the High Bailiff of this Court.

*NOTE.—The Claimant is called upon, five clear days at least before the day of hearing, to deliver to the High Bailiff, or leave at the office of the Registrar, two copies of the particulars of his claim, and the High Bailiff is required to forthwith send by post to the Execution Creditor one of the copies of such particulars.*

210. [186A., April, 1895.]

INTERPLEADER SUMMONS TO CLAIMANT SETTING UP CLAIM TO DAMAGES,  
AS WELL TO THE GOODS OR THE PROCEEDS THEREOF.

[Heading as in Form 209.]

[Name, address, and description of Claimant.]

You are hereby summoned to appear at a Court to be holden at \_\_\_\_\_ on \_\_\_\_\_  
the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_, in the \_\_\_\_\_  
noon, to support a claim made by you to certain goods and chattels \_\_\_\_\_  
[or to the proceeds of sale [or value] of certain goods and chattels] taken in \_\_\_\_\_  
execution under process issuing out of this Court at the instance of [*the*  
*Execution Creditor*], and also for damages arising out of such execution ; and  
in default of your then establishing such claim, the said goods and chattels  
will then be sold and the proceeds thereof paid over [or the said proceeds of  
sale [or value] will be paid over] according to the exigency of the said  
process ;

Order  
XXVII.,  
Rule 3.

And take notice, that you are hereby required, five clear days at least before the said day, to deliver to the High Bailiff, or leave at my office, two copies of the particulars of the goods and chattels which [*or* the proceeds [*or* value] whereof] are claimed by you, and of the grounds of your claim, and you must also state in such particulars the amount of the damages you claim, and the party from whom you claim the same, and the grounds of your claim ; and in such particulars you shall set forth fully your name, address, and description ; and take notice, that in the event of your not giving such particulars as aforesaid your claim will not be heard by the Court.

'To [the Claimant above named].

## 211. [180.]

## PARTICULARS OF CLAIM UNDER INTERPLEADER SUMMONS.

[*Not to be printed.*][*Heading as in Interpleader Summons.*]

Order  
XXVII.,  
Rules 5, 8,  
Order  
XXXIII.,  
Rule 10.

Take notice, that I, *E.F.*, of [*address and description*], claim certain goods and chattels [*or the proceeds of sale [or value] of certain goods and chattels*] to wit [*specify them, or add, as specified in the schedule hereunder written*] taken in execution under process issuing out of this Court in this action, and mentioned in the interpleader summons herein, and that the grounds of my claim are that the said goods and chattels were assigned to me by an indenture dated the \_\_\_\_\_ day of \_\_\_\_\_, and made between the said \_\_\_\_\_, the above named Defendant, of the one part, and me, the said *E.F.*, the Claimant, of the other part.

And further take notice, that I claim the sum of £ \_\_\_\_\_ from the said *A.B.*, the Plaintiff, and the High Bailiff of this Court, for damages arising out of the said execution; and that the grounds of my claim are that they broke and entered my said house at \_\_\_\_\_ aforesaid, and that they there seized and took away the said goods and chattels under the said execution.

Dated, &amp;c.

(Signed) *E.F.*, Claimant.

To [*the Execution Creditor*], and the  
High Bailiff of this Court.

## 212. [181.]

## PARTICULARS OF CLAIM FOR RENT UNDER INTERPLEADER SUMMONS.

[*Not to be printed.*][*Heading as in Interpleader Summons.*]

Order  
XXVII.,  
Rule 5.

Take notice, that *C.D.*, the Defendant, is my tenant of [*describe the premises*] situate at \_\_\_\_\_ in the county of \_\_\_\_\_, and that the goods and chattels taken in execution under process issuing out of this Court in this action, and mentioned in the interpleader summons herein, were in and upon the said [*house and premises*], and that there was at the date of the said execution due to me from the said *C.D.* the sum of £ \_\_\_\_\_ for \_\_\_\_\_

[one year's] rent of the said [house and premises], and that the same is still due and owing from the said C.D. to me, and that I claim payment of the said sum of £ out of the proceeds of the said execution.

Dated this                      day of                      .

(Signed)      E.F. [name, address, and description].

To [the Execution Creditor] and the  
High Bailiff of this Court.

213. [187A., April, 1895.]

ORDER ON INTERPLEADER SUMMONS WHERE CLAIM IS NOT  
ESTABLISHED.

[Not to be printed, but to be used as a precedent.]

[Heading as in Interpleader Summons.]

It is this day adjudged, touching the claim of E.F. to Order  
certain goods and chattels [or the proceeds of sale [or value] of certain goods XXVII.,  
and chattels taken in execution under process issuing out of this Court at the Rule 14.  
instance of [the Execution Creditor], [or to certain rent alleged to be due to Order  
him in respect of and issuing out of certain premises upon which certain goods XXXII  
and chattels were taken in execution under process issuing out of this Court at Rule 18.  
the instance of the said [Execution Creditor], that the said goods and chattels  
[or proceeds of sale [or value] are not the property of the said E.F., [or that  
there is no rent due to the said E.F.].

And it is ordered that the said E.F. do pay the sum of £  
for costs to the Registrar of this Court, for the use of the said [Execution  
Creditor], on or before the                      day of                      , 19      .

[Here insert directions as to the payment of the hearing fee, and directions as to any claim for possession fees, or other charges or expenses; also directions as to how any moneys paid into Court, or, in the case of an interpleader transferred from the High Court, any moneys in the hands of the sheriff, are to be disposed of, and an order on the sheriff to deal with such moneys accordingly: for example, thus—

And it is ordered that the said E.F.                      do on or before      Hearing fee.  
the                      day of                      pay the sum of £                      ,  
being the fee payable on the hearing of this proceeding estimated on the sum  
of £                      , to the Registrar of this Court :

And it is ordered that out of the sum of £                      paid into Court      Disposal of  
in this proceeding by the High Bailiff, being the value of the said goods and deposit or  
chattels deposited by the said E.F. with the said High Bailiff [or being the proceeds of  
proceeds of the sale by the said High Bailiff of the said goods and chattels] the sale.  
sum of £                      be paid to the said High Bailiff for possession  
money and charges in respect of the said execution, and that the balance of the  
said sum of £                      be paid to the said [Execution Creditor] in  
satisfaction so far as the same will extend of the sum in respect of which the  
said execution issued :

[*Or, where security given for value of goods :*

Where  
security  
given for  
value of  
goods.

And it is ordered that the said *E.F.* do on or before the day of \_\_\_\_\_ pay to the Registrar of this Court the sum of £ \_\_\_\_\_, being the value of the said goods and chattels, and that in default of such payment the High Bailiff do proceed to enforce the security given by the said *E.F.* for such value :

And it is ordered that all moneys paid by the said *E.F.* in respect of the said sum of £ \_\_\_\_\_, or recovered by the enforcement of the said security, be applied first in payment to the High Bailiff of the sum of £ \_\_\_\_\_ for the possession money and charges payable to him in respect of the said execution, and then in payment to the said [*Execution Creditor*], so far as the same will extend, of the sum in respect of which the said execution issued :]

Interpleader  
transferred  
from High  
court.

Disposal of  
moneys in  
hands of  
or paid into  
court by  
sheriff.

[*Or, in the case of an interpleader transferred from the High Court :*

And it is ordered that the Sheriff of \_\_\_\_\_ do forthwith after service of this order upon him pay to the said [*Execution Creditor*] the sum of £ \_\_\_\_\_ paid to the said sheriff by the said *E.F.* pursuant to the order of Master \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, [or the moneys in the hands of the said sheriff, representing the proceeds of the sale of the said goods and chattels by the said sheriff pursuant to the order of Master \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,] [or that the sum of £ \_\_\_\_\_ paid into Court by the Sheriff of \_\_\_\_\_ pursuant to the order of Master \_\_\_\_\_, dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, being the amount paid to the said sheriff by the said *E.F.* pursuant to the said order [or the proceeds of sale of the said goods and chattels by the said sheriff pursuant to the said order] be paid to the said [*execution creditor*], after deducting from the said sum [or moneys] the charges of the said sheriff in respect of the said execution, [such charges to be taxed by the Registrar in case of dispute :]

Costs of  
sheriff.

And it is further ordered that the said *E.F.* do pay to the said sheriff his costs of this proceeding down to and including the order directing this proceeding to be transferred to this Court, such costs in case of dispute to be taxed by the Registrar and paid by the said *E.F.* to the Registrar for the use of the sheriff within \_\_\_\_\_ days from the date of the certificate of taxation.]

To [*the Claimant*]  
and to the High Bailiff  
[or the Sheriff of \_\_\_\_\_].

214. [188A., April, 1895.]

ORDER ON INTERPLEADER SUMMONS WHERE CLAIM IS ESTABLISHED.

[*Not to be printed, but to be used as a precedent.*]

[*Heading as in Interpleader Summons.*]

Order  
XXVII.,  
Rule 14.  
Order  
XXXIII.,  
Rule 18.

It is this day adjudged, touching the claim of *E.F.* to certain goods and chattels [or the proceeds of sale [or value] of certain goods and chattels] taken in execution under process issuing out of this Court at the instance of the said [*Execution Creditor*], [or to certain rent alleged to be due

to him in respect of and issuing out of certain premises on which certain goods and chattels were taken in execution under process issuing out of this Court at the instance of the said [*Execution Creditor*], that the said goods and chattels [*or proceeds of sale [or value] [or part of the said goods and chattels or proceeds of sale or value, to wit, specifying them or it]*] are the property of the said *E.F.* [*or that rent to the amount of £                      is due to the said E.F.*]

And it is ordered that the said [*Execution Creditor*] do pay the sum of £                  for costs to the Registrar of this Court, for the use of the said *E.F.*, on or before the                  day of                  , 19    .

[Here insert directions as to the payment of the hearing fee, and directions as to any claim for possession fees, or other charges or expenses; also directions as to how any moneys paid into Court, or, in the case of an interpleader transferred from the High Court, any moneys in the hands of the sheriff, are to be disposed of, and an order on the sheriff to deal with such moneys accordingly: for example, thus—

And it is ordered that the said [*Execution Creditor*] do on or before the      Hearing fee.  
day of                          , 19        , pay the sum of £                          ,  
being the fee payable on the hearing of this proceeding estimated on the sum  
of £                          , to the Registrar of this Court :

And it is ordered that the sum of £                      paid into Court in this Disposal of  
proceeding by the High Bailiff, being the value of the said goods and chattels deposit or  
deposited by the said *E.F.*                      with the said High Bailiff [*or* being proceeds of  
the proceeds of the sale by the said High Bailiff of the said goods and chattels] sale.  
be paid to the said *E.F.*:

[Or, where security given for value of goods :

And it is ordered that the security given by the said *E.F.* for the value of the said goods and chattels be delivered up to the said *E.F.* to be cancelled, ]

Where security given for value of goods.

[Or, where the costs of keeping possession of the goods have been deposited with the High Bailiff:

And it is ordered that the sum of £                      deposited by the said          Where costs  
*E.F.*                      with the High Bailiff for the costs of keeping possession of          of keeping  
the said goods and chattels be forthwith repaid by the said High Bailiff to the          possession  
said *E.F.*                      : ]          deposited.

And it is ordered that the said [*Execution Creditor*] do on or before the day of \_\_\_\_\_, 19\_\_\_\_, pay to the Registrar of this Court, for the use of the High Bailiff, the sum of £ \_\_\_\_\_ for possession money and charges in respect of the said execution.

*[Or, in the case of an interpleader transferred from the High Court :*

And it is ordered that the Sheriff of \_\_\_\_\_ do forthwith after \_\_\_\_\_  
service of this order upon him pay to the said *E.F.* the \_\_\_\_\_ Court.  
sum of £ \_\_\_\_\_ paid to the said sheriff by the said *E.F.* Disposal of \_\_\_\_\_  
pursuant to the order of Master \_\_\_\_\_ dated the \_\_\_\_\_ day moneys in \_\_\_\_\_  
of \_\_\_\_\_, 19 \_\_\_\_\_, [or the moneys in the hands of the said sheriff, or paid into \_\_\_\_\_  
Court by \_\_\_\_\_]

representing the proceeds of the sale of the said goods and chattels by the said sheriff pursuant to the order of Master \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_:] [*or* that the sum of £ \_\_\_\_\_ paid into Court by the Sheriff of \_\_\_\_\_ pursuant to the order of Master \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, being the amount paid to the said sheriff by the said *E.F.* pursuant to the said order [*or* the proceeds of the sale of the said goods and chattels by the said sheriff pursuant to the said order], be paid to the said *E.F.* :]

Possession  
money since  
date of  
Master's  
order.

And it is ordered that the said [*Execution Creditor*] do on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, pay to the Registrar of this Court, for the use of the said *E.F.*, \_\_\_\_\_ the sum [*if any*] paid by the said *E.F.* to the said sheriff for possession money from the date of the said order of Master \_\_\_\_\_ :

Costs of  
sheriff.

And it is ordered that the said [*Execution Creditor*] do pay to the said sheriff his costs of the said execution and of this proceeding down to and including the order directing this proceeding to be transferred to this Court, such costs in case of dispute to be taxed by the Registrar and to be paid by the said [*Execution Creditor*] to the Registrar for the use of the sheriff within \_\_\_\_\_ days from the date of the certificate of taxation.]

To [*the Execution Creditor*]  
and to the High Bailiff  
[*or* the Sheriff of \_\_\_\_\_].

215. [189A., April, 1895.]

ORDER ON INTERPLEADER SUMMONS WHERE BOTH GOODS AND DAMAGES ARE CLAIMED, AND THE CLAIM TO NEITHER IS ESTABLISHED.

[*Not to be printed, but to be used as a precedent.*]

[*Heading as in Interpleader Summons.*]

Order  
XXVII.,  
Rule 14.

It is this day adjudged, touching the claim of *E.F.* \_\_\_\_\_ to certain goods and chattels [*or* the proceeds of sale [*or* value] of certain goods and chattels] taken in execution under process issuing out of this Court at the instance of the said [*Execution Creditor*], and for damages arising out of the said execution, and which the said *E.F.* claims against [*the Execution Creditor*] and the High Bailiff of this Court, that the said goods and chattels [*or* proceeds of sale [*or* value] are not the property of the said *E.F.*, and that the said *E.F.* is not entitled to recover any damages from either [*the Execution Creditor*] or the High Bailiff of this Court :

And it is ordered that the said *E.F.* do pay to the Registrar of this Court the sum of £ \_\_\_\_\_ for costs for the use of the said [*Execution Creditor*], and the sum of £ \_\_\_\_\_ for costs for the use of the High Bailiff of this Court, on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

[*Here insert directions as to the payment of the hearing fee, and directions as to any claim for possession fees or other charges or expenses ; also directions as to how any moneys paid into Court are to be disposed of ; see Form 213.*]

To [*the Claimant*].



216. [190A., April, 1895.]

## ORDER ON INTERPLEADER SUMMONS WHERE BOTH GOODS AND DAMAGES ARE CLAIMED, AND THE CLAIM TO BOTH IS ESTABLISHED.

*[Not to be printed, but to be used as a precedent].**[Heading as in Interpleader Summons.]*

It is this day adjudged, touching the claim of *E.F.* to certain goods and chattels [*or the proceeds of sale [or value] of certain goods and chattels*] taken in execution under process issuing out of this Court at the instance of the said [*Execution Creditor*], and for damages arising out of the said execution, and which the said *E.F.* claims against [*the Execution Creditor*] and the High Bailiff of this Court, that the said goods and chattels [*or proceeds of sale [or value] [or part of the said goods and chattels or proceeds of sale or value, to wit, [specifying them or it]*] are the property of the said *E.F.*, and that the said *E.F.* is entitled to recover the sum of £ for damages arising out of the said execution against the said [*Execution Creditor*] and the High Bailiff of this Court :

Order  
XXVII.,  
Rule 14.

[*Or, and that the said E.F.* is entitled to recover the sum of £ for damages arising out of the said execution against the said [*Execution Creditor*], but is not entitled to recover any damages against the High Bailiff of this Court :]

[*Or, and that the said E.F.* is entitled to recover the sum of £ for damages arising out of the said execution against the High Bailiff of this Court, but is not entitled to recover any damages against the said [*Execution Creditor*]:

And it is ordered that the said [*Execution Creditor*] and the High Bailiff of this Court do pay the said sum of £ for damages, and the sum of £ for costs, to the Registrar of this Court, for the use of the said *E.F.*, on or before the , day of , 19 .

*Or*, that the said [*Execution Creditor*] do pay the said sum of £ for damages, and the sum of £ for costs, to the Registrar of this Court for the use of the said *E.F.*, on or before the day of , 19 , and that the said *E.F.* do pay the sum of £ for costs to the Registrar of this Court, for the use of the High Bailiff of this Court, on or before the day , 19 :]

[*Or, that the High Bailiff of this Court do pay the said sum of £ for damages, and the sum of £ for costs, and that the said [Execution Creditor] do pay the sum of £ for costs to the Registrar of this Court, for the use of the said E.F., on or before the day of , 19 :]*

*[Here insert directions as to the payment of the hearing fee, and directions as to any claim for possession fees, or other charges or expenses ; also directions as to how any moneys paid into Court are to be disposed of ; see Form 214.]*

To [*the Execution Creditor*] and  
the High Bailiff.

217. [191A., April, 1895.]

ORDER ON INTERPLEADER SUMMONS WHERE BOTH GOODS AND DAMAGES  
ARE CLAIMED, AND THE CLAIM TO THE GOODS *IS*, BUT THAT TO DAMAGES  
*IS NOT*, ESTABLISHED.

[*Not to be printed, but to be used as a precedent.*]

[*Heading as in Interpleader Summons.*]

Order  
XXVII.,  
Rule 14.

It is this day adjudged, touching the claim of *E.F.* to certain goods and chattels [*or the proceeds of sale [or value] of certain goods and chattels*] taken in execution under process issuing out of this Court at the instance of the said [*Execution Creditor*], and for damages arising out of the said execution, and which the said *E.F.* claims against [*the Execution Creditor*] and the High Bailiff of this Court, that the said goods and chattels [*or proceeds of sale [or value] [or part of the said goods and chattels or proceeds of sale or value, to wit, [specifying them or it]*] are the property of the said *E.F.*, but that the said *E.F.* is not entitled to recover any damages from either [*the Execution Creditor*] or the High Bailiff of this Court :

And it is ordered that [*the Execution Creditor*] do pay to the Registrar of this Court the sum of £ for costs, for the use of the said *E.F.*, on or before the day of , 19 , and that the said *E.F.* do pay to the Registrar of this Court the sum of £ for costs, for the use of the High Bailiff of this Court, on or before the day of , 19 .

[*Here insert directions as to the payment of the hearing fee, and directions as to any claim for possession fees, or other charges or expenses ; also directions as to how any moneys paid into Court are to be disposed of ; see Form 214.*]

To [*the Execution Creditor*] and  
to *E.F.* [*the Claimant*].

218. [192A., April, 1895.]

ORDER ON INTERPLEADER SUMMONS WHERE BOTH GOODS AND DAMAGES  
ARE CLAIMED, AND THE CLAIM TO THE GOODS *IS NOT*, BUT THE CLAIM  
TO DAMAGES *IS*, ESTABLISHED.

[*Not to be printed, but to be used as a precedent.*]

[*Heading as in Interpleader Summons.*]

Order  
XXVII.,  
Rule 14.

It is this day adjudged, touching the claim of *E.F.* to certain goods and chattels [*or the proceeds of sale [or value] of certain goods and chattels*] taken in execution under process issuing out of this Court at the instance of the said [*Execution Creditor*], and for damages arising out of the said execution, and which the said *E.F.* claims against [*the Execution Creditor*] and the High Bailiff of this Court, that the said goods and chattels [*or proceeds of sale [or value]*] are not the property of the said *E.F.*, but that the said *E.F.* is entitled to recover the sum of £ for damages arising out of the said execution against the said [*Execution Creditor*] and the High Bailiff of this Court :

[Or, but that the said *E.F.* is entitled to recover the sum of £ for damages arising out of the said execution against the said [*Execution Creditor*], but is not entitled to recover any damages against the High Bailiff of this Court :]

[Or, but that the said *E.F.* is entitled to recover the sum of £ for damages arising out of the said execution against the High Bailiff of this Court, but is not entitled to recover any damages against the said [*Execution Creditor*] :]

And it is ordered that the said [*Execution Creditor*] and the High Bailiff of this Court do pay the said sum of £ for damages, and the sum of £ for costs, to the Registrar of this Court, for the use of the said *E.F.*, on or before the day of , 19 :

[Or, that the said [*Execution Creditor*] do pay the said sum of £ for damages, and the sum of £ for costs, to the Registrar of this Court, for the use of the said *E.F.*, on or before the day of , 19 , and that the said *E.F.* do pay the sum of £ for costs to the Registrar of this Court, for the use of the High Bailiff of this Court, on or before the day of , 19 :]

[Or, that the High Bailiff of this Court do pay the said sum of £ for damages, and the sum of £ for costs, to the Registrar of this Court, for the use of the said *E.F.*, on or before the day of , 19 , and that the said *E.F.* do pay the sum of £ for costs to the Registrar of this Court, for the use of the said [*Execution Creditor*], on or before the day of , 19 :]

[Here insert directions as to the payment of the hearing fee, and directions as to any claim for possession fees, or other charges or expenses ; also directions as to how any moneys paid into Court are to be disposed of ; see Form 213.]

To *E.F.* [the Claimant],  
and to [Execution Creditor],  
and the High Bailiff.

## 219. [196A., April, 1895.]

ORDER ON INTERPLEADER SUMMONS WHERE BOTH GOODS AND DAMAGES ARE CLAIMED, AND MONEY IS PAID INTO COURT IN RESPECT OF THE LATTER, AND THE CLAIM TO THE GOODS IS ESTABLISHED, AND THE MONEY PAID INTO COURT IS FOUND TO BE SUFFICIENT TO SATISFY THE DAMAGES.

[Not to be printed, but to be used as a precedent.]

[Heading as in Interpleader Summons.]

It is this day adjudged, touching the claim of *E.F.* to certain goods chattels [or the proceeds of sale [or value] of certain goods and chattels] taken in execution under process issuing out of this Court at the instance of the said [*Execution Creditor*], and for damages arising out of the said execution, and which the said *E.F.* claims against the said [*Execution Creditor*]

Order  
XXVII.,  
Rule 14.

and the High Bailiff of this Court, and in respect of which damages the said [Execution Creditor] [or the said High Bailiff] has paid into Court the sum of £ , that the said goods and chattels [or proceeds of sale] [or value] [or part of the said goods and chattels or proceeds of sale or value, to wit, [specifying them or it] are the property of the said E.F., but that the said sum paid into Court is sufficient to satisfy all damages arising out of the said execution which the said E.F. is entitled to recover against the said [Execution Creditor] [or the said High Bailiff] (as the case may be):

And it is ordered that the said [Execution Creditor] do pay the sum of £ for costs to the Registrar of this Court, for the use of the said E.F., on or before the day of , 19 :

And that the said E.F. do pay the sum of £ for costs to the Registrar of this Court, for the use of the High Bailiff of this Court, on or before the day of , 19 , [or such other order as the Judge shall think fit to make as to costs].

[Here insert directions as to the payment of the hearing fee, and directions as to any claim for possession fees, or other charges or expenses; also directions as to how any moneys paid into Court are to be disposed of; see Form 214.]

To E.F. [the Claimant],  
and to [Execution Creditor],  
and to the High Bailiff.

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220. [197A., April, 1895.]

ORDER ON INTERPLEADER SUMMONS WHERE BOTH GOODS AND DAMAGES ARE CLAIMED, AND MONEY IS PAID INTO COURT IN RESPECT OF THE LATTER, AND THE CLAIM TO THE GOODS IS ESTABLISHED, AND THE MONEY PAID INTO COURT IS ADJUDGED INSUFFICIENT.

[Not to be printed, but to be used as a precedent.]

[Heading as in Interpleader Summons.]

Order  
XXVII.,  
Rule 14.

It is this day adjudged, touching the claim of E.F. to certain goods and chattels [or the proceeds of sale] [or value] of certain goods and chattels taken in execution under process issuing out of this Court at the instance of the said [Execution Creditor], and for damages arising out of the said execution, and which the said E.F. claims against the said [Execution Creditor] and the High Bailiff of this Court, and in respect of which damages the said [Execution Creditor] [or the said High Bailiff] has paid into Court the sum of £ , that the said goods and chattels [or proceeds of sale] [or value] [or part of the said goods and chattels or proceeds of sale or value, to wit, [specifying them or it] are the property of the said E.F., and that the said sum of £ paid into Court is not sufficient to satisfy the damages arising out of the said execution, and that the said E.F. is entitled to recover the further sum of £ for damages against the said [Execution Creditor] and the High Bailiff of this Court :

[Or, and that the said *E.F.* is entitled to recover the further sum of £ for damages against the said [*Execution Creditor*], but is not entitled to recover any further damages against the High Bailiff of this Court:]

[Or, and that the said *E.F.* is entitled to recover the further sum of £ for damages against the High Bailiff of this Court, but is not entitled to recover any further damages against the said [*Execution Creditor*]:]

And it is ordered that the said [*Execution Creditor*] and the High Bailiff of this Court do pay the said further sum of £ for damages, and the sum of £ for costs, to the Registrar of this Court, for the use of the said *E.F.*, on or before the day of , 19 :

[Or, that the said [*Execution Creditor*] do pay the said further sum of £ for damages, and the sum of £ for costs, to the Registrar of this Court, for the use of the said *E.F.*, on or before the day of , 19 , and that the said *E.F.* do pay the sum of £ for costs to the Registrar of this Court, for the use of the High Bailiff of this Court, on or before the day of , 19 :]

[Or, that the High Bailiff of this Court do pay the said further sum of £ for damages, and the sum of £ for costs, and that the said [*Execution Creditor*] do pay the sum of £ for costs, to the Registrar of this Court, for the use of the said *E.F.*, on or before the day of , 19 :]

[Insert directions as to the payment of the hearing fee, and directions as to any claim for possession fees, or other charges or expenses; also directions as to how any moneys paid into Court are to be disposed of; see Form 214.]

To *E. F.* [the Claimant],  
and to [*Execution Creditor*].  
and to the High Bailiff.

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221. [199A., April, 1895.]

# WARRANT OF EXECUTION AGAINST GOODS OF CLAIMANT.

[Heading as in *Interpleader Summons*.]

Whereas at a Court holden at on the day of , 19 , the Plaintiff, by the judgment of the said Court, recovered against the Defendant the sum of £ for debt [or damages] and for costs :

And whereas the Defendant, by an order of the Court, was ordered to pay the same to the Registrar of the Court :

And whereas default having been made in payment according to the said order, an execution issued against the goods of the Defendant, under which certain goods and chattels were seized, in respect of which *E.F.*, of [address and description] made claim, and which claim was heard and decided upon at a Court holden at on the day of 19 , and it was adjudged that the goods so seized under

the said execution were not the property of the said *E.F.* [or that certain rent alleged by the said *E.F.* to be due to him in respect of and issuing out of certain premises on which the said goods and chattels were seized was not so due] :

And it was ordered that the said *E.F.* should pay the sum of £ for costs to the Registrar of the Court, for the use of the said [Plaintiff], on or before the day of 19:]

And whereas default has been made in payment according to the said last-mentioned order :

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the said *E.F.*, wheresoever they may be found within the district of this Court (except the wearing apparel and bedding of the said *E.F.*, or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the Plaintiff under the said order, together with the costs of this execution ; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for the money of the said *E.F.*, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of the Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court this day of 19 .

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

	£	s.	d.
Costs adjudged ... ..			
Paid into Court ... ..			
Remaining due ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant as indorsed hereon].			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said *E.F.*

Application was made to the Registrar for this warrant at minutes past the hour of in the noon of the day of 19 .

See BACK.

For indorsement of fees for execution of warrant, see Form 163.

## 222. [193.]

## CLAIM BY EXECUTION CREDITOR FOR DAMAGES AGAINST HIGH BAILIFF.

[*Not to be printed.*][*Heading as in Interpleader Summons, adding thereto*]—Order  
XXVII.,  
Rule 9,

and between

A.B., Execution Creditor

Claimant,

and

The High Bailiff of this Court

Respondent.

Take notice that I, A.B., the Execution Creditor in the above action, claim the sum of £ from you the High Bailiff of this Court, for damages arising out of the execution in this action, and that the grounds of my claim are as follows : [*here state the grounds of the claim, e.g., for that you having seized certain goods and chattels of and belonging to C.D., the Execution Debtor, under process issued from this Court at my instance, wrongfully, and without lawful excuse, withdrew from the possession of the said goods and chattels, whereby I was deprived of the fruits of the said execution*].

[And further take notice, that I shall apply to the Judge at the hearing of the interpleader summons herein to adjudicate upon such claim.]

Dated this                      day of                      19

To the High Bailiff  
of this Court.

Execution Creditor.

## 223. [194.]

## ORDER ON CLAIM FOR DAMAGES BY EXECUTION CREDITOR AGAINST HIGH BAILIFF, WHERE THE CLAIM IS ESTABLISHED.

[*Not to be printed.*][*Heading as in Form 222.*]

It is this day adjudged, touching the claim of the Execution Creditor in this action, against the High Bailiff of this Court, for damages arising out of an execution in this action, in which process issued from this Court at the instance of the said                      , the Execution Creditor, directing the High Bailiff to levy the sum of £                      of and

Order  
XXVII.,  
Rule 14.

from the goods and chattels of [the *Execution Debtor*], that the said , the Execution Creditor, is entitled to recover from the High Bailiff of this Court the sum of £ for damages arising out of the said execution :

And it is ordered that the High Bailiff of this Court do, on or before the day of , 19 , pay to the Registrar of this Court the said sum of £ , and also the further sum of £ for costs, for the use of the said , the Execution Creditor.

To the High Bailiff  
of this Court.

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224. [195.]

ORDER ON CLAIM FOR DAMAGES BY EXECUTION CREDITOR AGAINST HIGH BAILIFF, WHERE THE CLAIM IS NOT ESTABLISHED.

[*Not to be printed.*]

[*Heading as in Form 222.*]

Order  
XXVII.,  
Rule 14.

It is this day adjudged, touching the claim of , the Execution Creditor in this action, against the High Bailiff of this Court, for damages arising out of an execution in this action, in which process issued from this Court at the instance of the said , the Execution Creditor, directing the High Bailiff to levy the sum of £ of and from the goods and chattels of [the *Execution Debtor*], that the said , the Execution Creditor, is not entitled to recover from the High Bailiff of this Court any damages in respect of or in any way arising from the said execution :

And it is ordered that the said , the Execution Creditor, do on or before the day of , 19 , pay to the Registrar of this Court the sum of £ for costs, for the use of the said High Bailiff of this Court.

To , the  
Execution Creditor.

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225.

ORDER ON CLAIM FOR DAMAGES BY EXECUTION CREDITOR AGAINST HIGH BAILIFF, WHERE THE HIGH BAILIFF PAYS MONEY INTO COURT.

[*Not to be printed.*]

[*Title as in Form 222.*]

Order  
XXVII.,  
Rule 14.

It is this day adjudged, touching the claim of , the Execution Creditor in this action, against the High Bailiff of this Court, for damages arising out of an execution in this action, in which process issued from this Court at the instance of the said , the Execution Creditor, directing the High Bailiff to levy the sum of of and from the goods and chattels of [the *Execution Debtor*], and in respect of which damages the High Bailiff has paid into Court the sum of £ , that the sum paid into Court is sufficient to satisfy all damages



arising out of the said execution [*or* that the sum paid into court is not sufficient to satisfy the damages arising out of the said execution, and that the said , the Execution Creditor, is entitled to recover the further sum of £ for damages from the High Bailiff :]

And it is ordered that the said , the Execution Creditor, do pay to the Registrar of this Court, on or before the day of 19 , the sum of £ for costs, for the use of the High Bailiff [*or* that the High Bailiff do pay to the Registrar of this Court, on or before the day of , 19 , the said further sum of £ for damages, and also the sum of £ for costs, for the use of the Execution Creditor].

To , the  
Execution Creditor.  
[*or* To the High Bailiff  
of this Court.]

226. [134A., June, 1896.]

AFFIDAVIT BY DEFENDANT SUED BY AN ASSIGNEE, WHO HAS HAD NOTICE THAT THE ASSIGNMENT IS DISPUTED BY THE ASSIGNOR, OR BY DEFENDANT IN ACTION FOR DEBT, CHOSE IN ACTION, OR CHATTEL, WHO HAS HAD NOTICE OF ANY OPPOSING OR CONFLICTING CLAIM.

[*Not to be printed.*]

In the County Court of · holden at

No. of Plaintiff.

Order  
XXVII.,  
Rule 15 (2).

Between

A.B.

Plaintiff.

and

C.D.

Defendant.

I, C.D., of , the above-named defendant, made oath and say as follows :—

1. The summons in this action was issued on the day of , and was served on me on the day of .

2. The action is brought to recover the sum of £ , which is alleged to be due from me to of , but which sum is alleged to have been assigned by the said to the Plaintiff.

[*or* 2. The action is brought to recover [*state what*].

3. The said sum of £ [or the sum of £ , part of the sum of £ ] is due from me, [*or* the said is in my possession, but I claim no interest therein, except for charges and costs].

4. I have received notice from the said [*assignor*] [*or* from , who claims under the said [*assignor*], that he disputes the assignment of the said sum of £ [or of £ , part of the said sum of £ ,] to the Plaintiff.

[or 4. I have received notice from \_\_\_\_\_ of \_\_\_\_\_ that the right to the said subject matter of this action [or to \_\_\_\_\_, part of the said subject matter of this action,] is claimed by him.

5. I admit the claim of the Plaintiff to £ \_\_\_\_\_, part of the said sum of £ \_\_\_\_\_, which is not claimed by the said \_\_\_\_\_ [or I admit the claim of the Plaintiff to \_\_\_\_\_, part of the said subject matter of this action, which is not claimed by the said \_\_\_\_\_].

6. I do not in any manner collude with the said [opposing claimant] or with the above-named Plaintiff, but I am ready to bring into Court the said \_\_\_\_\_, or to pay or dispose of the same \_\_\_\_\_ in such manner as the Court may order or direct.

Sworn, &c.

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227. [135A., June, 1896.]

INTERPLEADER SUMMONS TO ASSIGNOR OR OTHER PERSON DISPUTING  
ASSIGNMENT, OR PERSON MAKING OPPOSING OR CONFLICTING CLAIM  
TO DEBT, CHOSE IN ACTION, OR CHATTEL SUED FOR.

[*Title of Action.*]

Order  
XXVII.  
Rule 15 (4).

Whereas the Defendant in this action (copy of the summons and particulars wherein is hereto annexed) has filed an affidavit (copy whereof is also hereto annexed) stating that he has received notice from you that you dispute the assignment of the subject matter in this action [or of £ \_\_\_\_\_, part of the subject matter of this action] [or that you claim the subject matter in this action or \_\_\_\_\_, part of the subject matter of this action] :

You are therefore summoned to appear at a Court to be holden at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ in the \_\_\_\_\_ noon, when the dispute or claim to the subject matter in this action will be determined, and judgment will be given determining the rights and claims of the Plaintiff, the Defendant, and yourself.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Registrar.

To *E.F.*, of, &c. [*here insert name, address, and description of the person to be summoned*].

NOTE.—*You are called upon, five clear days at least before the day of hearing, to leave at the office of the Registrar either three copies of a notice that you relinquish your claim, or three copies of particulars stating the grounds on which you dispute the assignment or found your claim to the subject matter of the action ; and the Registrar is required to forthwith send by post one of such copies to the Plaintiff, and one other of such copies to the Defendant.*

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## 228. [135B., June, 1896.]

NOTICE TO PLAINTIFF WHERE INTERPLEADER SUMMONS ISSUED TO ASSIGNOR OR OTHER PERSON DISPUTING ASSIGNMENT, OR PERSON MAKING OPPOSING OR CONFLICTING CLAIM TO DEBT, CHOSE IN ACTION, OR CHATTEL SUED FOR.

[*Title of Action.*]

Whereas the Defendant in this action has filed an affidavit (copy whereof is hereto annexed) stating that he has received notice from \_\_\_\_\_, of \_\_\_\_\_, that he disputes the assignment of the subject matter in this action [*or of £ \_\_\_\_\_, part of the subject matter of this action*] [*or that he claims the subject matter in this action or \_\_\_\_\_, part of the subject matter of this action*] :

Order  
XXVII.,  
Rule 15(4).

Take notice, that a summons has been issued to the said \_\_\_\_\_ to appear at a Court to be holden at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ in the \_\_\_\_\_ noon, and that the hearing of this action has been adjourned to the same place, day, and hour, when the dispute or claim to the subject matter in this action will be determined, and judgment will be given determining the rights and claims of yourself, the Defendant, and the said \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Registrar.

To the above-named Plaintiff.

NOTE.—*The Claimant is called upon, five clear days at least before the day of hearing, to leave at the office of the Registrar either three copies of a notice that he relinquishes his claim, or three copies of particulars stating the grounds on which he disputes the assignment or founds his claim to the subject matter of the action; and the Registrar is required to forthwith send by post one of such copies to the Plaintiff, and one other of such copies to the Defendant.*

## 229. [135C., June, 1896.]

NOTICE TO DEFENDANT OF ISSUE OF INTERPLEADER SUMMONS.

[*Title of Action.*]

Whereas you have filed an affidavit stating that you have received notice from \_\_\_\_\_, of \_\_\_\_\_, that he disputes the assignment of the subject matter in this action [*or of £ \_\_\_\_\_, part of the subject matter of this action*] [*or that he claims the subject matter in this action or \_\_\_\_\_, part of the subject matter of this action*] :

Order  
XXVII.,  
Rule 15(4).

Take notice, that a summons has been issued to the said \_\_\_\_\_ to appear at a Court to be holden at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ in the \_\_\_\_\_ noon, and that the hearing of this action has been adjourned

to the same place, day, and hour, when the dispute or claim to the subject matter in this action will be determined, and judgment will be given determining the rights and claims of the Plaintiff, yourself, and the said

Dated this                      day of                      , 19                      .

Registrar.

To the above-named Defendant.

NOTE.—*The Claimant is called upon, five clear days at least before the day of hearing, to leave at the office of the Registrar either three copies of a notice that he relinquishes his claim, or three copies of particulars stating the grounds on which he disputes the assignment or founds his claim to the subject matter in the action ; and the registrar is required to forthwith send by post one of such copies to the Plaintiff, and one other of such copies to the Defendant.*

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230. [135D., June, 1896.]

PARTICULARS OF GROUNDS ON WHICH ASSIGNMENT IS DISPUTED OR  
SUBJECT MATTER CLAIMED.

[*Not to be printed.*]

[*Heading as in Form 231.*]

Order  
XXVII.  
Rule 15(5).

Take notice, that I dispute the assignment of the subject matter in this action  
[*or of £*                      , part of the subject matter of this action] to the Plaintiff,  
and that the grounds on which I dispute the same are

[*state grounds*].

[*or* Take notice, that I claim to be entitled to the subject matter in this action  
[*or to*                      , part of the subject matter of this action], and that the  
grounds of my claim are

[*state grounds*].

[*or* Take notice, that I relinquish my claim to the subject matter of this  
action].

Dated this                      day of                      , 19                      .

*E.F.*

To the Registrar of the Court

and

To the Plaintiff, *A.B.*,  
and the Defendant, *C.D.*

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## 231. [136A., June, 1896.]

ORDER WHERE ASSIGNMENT IS ADJUDGED INVALID, OR OPPOSING CLAIM  
IS SUSTAINED.

In the County Court of

holden at

No. of Plaintiff

Between

A.B.,

Plaintiff

and

C.D.,

Defendant,

and

E.F.,

made party by summons, dated the

day of

19 .

It is this day adjudged, touching the dispute as to the assignment of the subject matter of this action to the Plaintiff, that there is no such assignment as alleged [*or touching the claim of the Plaintiff to the subject matter of this action, that he has no claim thereto*], and that the above named E.F.

Order  
XXVII.,  
Rule 15 (7)

do recover against the Plaintiff the sum of £ for costs, and that the Defendant do recover against the Plaintiff the sum of £ for costs :

And it is further adjudged that the said E.F. do recover against the Defendant the sum of £ for debt, and the sum of £ for costs, amounting together to the sum of £ :

And it is ordered that the Plaintiff do pay the said sums of £ and £ to the Registrar of this Court on the day of :

And it is further ordered that the Defendant do pay the said sum of £ to the Registrar of this Court on the day of [or by instalments of £ for every days, the first instalment to be paid on the day of , 19 .

[*If the subject matter of the action is a chose in action or chattel, the order is to be framed accordingly.*]

## 232. [137A., June, 1896.]

ORDER WHERE ASSIGNMENT IS ADJUDGED VALID, OR OPPOSING CLAIM  
IS NOT SUSTAINED.

[*Heading as in last Form.*]

It is this day adjudged, touching the dispute as to the assignment of the subject matter of this action to the Plaintiff, that the said assignment is good [*or touching the claim of the Plaintiff to the subject matter of this action, that such claim is valid*], and that the Plaintiff do recover against the above-named E.F. the sum of £ for costs ; and that the Defendant do recover from the said E.F. the sum of £ for costs :

Order  
XXVII.,  
Rule 15 (7).

And it is further adjudged that the Plaintiff do recover against the Defendant the sum of £ for debt, and £ for costs, amounting together to the sum of £ :

And it is ordered that the said E.F. do pay the said sums of £ and £ to the Registrar of this Court on the day of :

And it is further ordered that the Defendant do pay the said sum of £  
to the Registrar on the \_\_\_\_\_ day of \_\_\_\_\_ [or by instalments of  
for every \_\_\_\_\_ days, the first instalment to be paid on the  
day of \_\_\_\_\_ 19 \_\_\_\_].

[If the subject matter of the action is a chose in action or chattel, the order to  
be framed accordingly.]

233. [138A., June, 1896.]

ORDER WHERE ASSIGNMENT IS ADJUDGED INVALID, OR OPPOSING CLAIM IS  
SUSTAINED, AND DEFENDANT FILES A COUNTER-CLAIM AGAINST PLAINTIFF.

[Title as in Form 231.]

Order  
XXVII.,  
Rule 15 (7).

It is this day adjudged, touching the dispute as to the assignment of the  
subject matter of this action to the Plaintiff, that there is no such assignment as  
alleged [or touching the claim of the Plaintiff to the subject matter of this  
action, that he has no claim thereto], and that the counter-claim of £  
by the Defendant against the Plaintiff is sustained [or is not sustained] :

And it is adjudged that the said *E.F.* \_\_\_\_\_ do recover against the  
Plaintiff the sum of £ \_\_\_\_\_ for costs :

And it is further adjudged that the above named *E.F.* \_\_\_\_\_ do recover  
against the Defendant the sum of £ \_\_\_\_\_ for debt, together with the sum of  
£ \_\_\_\_\_ for costs, amounting together to the sum of £ \_\_\_\_\_ :

And it is further adjudged that the Defendant do recover against the Plaintiff  
the sum of £ \_\_\_\_\_ in respect of his counter-claim, and the sum of  
£ \_\_\_\_\_ for costs, amounting together to the sum of £ \_\_\_\_\_  
[or that judgment be entered for the Plaintiff upon the counter-claim with  
costs].

And it is ordered that the Defendant do pay the said sum of £  
to the Registrar of this Court on, &c.

And it is further ordered that the Plaintiff do pay the said sums of £  
and £ \_\_\_\_\_ to the Registrar on, &c. [or that the Plaintiff do pay the  
said sum of £ \_\_\_\_\_ to the Registrar on the \_\_\_\_\_ day of \_\_\_\_\_ for  
the costs of the said *E.F.*, \_\_\_\_\_ and that the Defendant do pay to the  
Registrar on the \_\_\_\_\_ day of \_\_\_\_\_ the further sum of £ \_\_\_\_\_  
for the Plaintiff's costs of the Defendant's counter-claim].

[If the subject matter of the action is a chose in action or chattel, the order to  
be framed accordingly.]

234. [119.]

CERTIFICATE OF DEPOSIT.

51 & 52 Vict.  
c. 43. s. 109.

I hereby certify that the Plaintiff [or Defendant] has paid into my hands  
the sum of £ \_\_\_\_\_ [here state the proceeding which has rendered the  
deposit necessary].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Registrar.

235. [120.]

## NOTICE OF PROPOSED SURETIES.

[Not to be printed.]

Take notice, that the sureties whom I propose as my security in the above action [*here state the proceeding which has rendered the sureties necessary*] are [*here state the full names and additions of the sureties, whether householders or freeholders, and their residences for the last six months, therein mentioning the county or city, places, streets, and numbers, if any*].

Order XXIX.,  
Rule 1.

Dated this                      day of                      19 .  
To the

236. [121.]

## AFFIDAVIT OF JUSTIFICATION.

[Not to be printed.]

I,                      , of                      , one of the sureties for the Defendant, make oath and say :                      Order XXIX.,  
Rule 2.

1. That I am a householder [*or freeholder, as the case may be*], residing at                      [*describe particularly the county or city, the street or place, and the number of the house, if any*].

2. That I am worth property to the amount of £                      [*the amount required by the practice of the Court*] over and above what will pay my just debts [*if security in any other action or for any other purpose, add, and every other sum for which I am now security*].

3. That I am not bail or security in any other action or proceeding or for any other person [*if security in any other action or actions, add, except for C.D., at the suit of E.F., in the Court of                      in the sum of £                      , for G.H., at the suit of I.K., in the Court of                      in the sum of £                      , specifying the several actions, with the Courts in which they are brought, and the sums in which he has become bound*].

4. That this my property, to the amount of the said sum of £                      [*if security in any other action, &c., add over and above all other sums for which I am now security as aforesaid*], consists of [*here specify the nature and value of the property in respect of which the deponent proposes to become bondsman, as follows*], stock in trade in my business of                      , carried on by me at                      , of the value of £                      , good book debts owing to me to the amount of £                      , furniture in my house at                      of the value of £                      , a freehold [*or leasehold*] farm of the value of £                      , situate at                      occupied by                      [*or a dwelling-house of the value of £                      situate at                      occupied by* ] [*or other property, particularizing each description of property, with the value thereof*].

5. That I have for the last six months resided at                      [*describing the place of such residence, or if he has had more than one residence during that period, state in the same manner as above directed*].

## 237. [122.]

## NOTICE BY REGISTRAR OF DAY AND HOUR UPON WHICH BOND TO BE EXECUTED.

Order XXIX.,  
Rule 1.

Take notice, that I have appointed the                      day of  
19                      , at                      o'clock in the forenoon, at my office situate at  
for the                      and his sureties to execute the bond proposed to be given  
in the above action.

[*To be added to notice to obligee* :—And further take notice, that if you have  
any valid objection to make to the sureties, or either of them, such objection  
must then be made].

Dated this                      day of                      , 19                      .

To the Plaintiff [*or* Defendant].

Registrar.

## 238. [200.]

## JUDGMENT AGAINST AN EXECUTOR WHO HAS WASTED ASSETS.

No. of Plaintiff

In the County Court of

holden at

Between

A.B.,

Plaintiff,

and

C.D.,

Defendant.

Executor [*or* Administrator] of

deceased.

Order XXX.,  
Rule 4.

Upon the trial of this action at a Court holden this day, it is adjudged that the  
Plaintiff do recover against the Defendant the sum of £                      for                      ,  
and £                      for costs :

And it is ordered that the Defendant do pay the same to the Registrar of  
this Court on or before the                      day of                      , 19                      , [*or* by  
instalments of                      for every                      days, the first instalment to be  
paid on the                      day of                      , 19                      ]:

It is also adjudged that the Defendant, being the executor [*or* administrator]  
of the said deceased, has made away with, wasted, and put to his own use  
divers goods and chattels [*or* moneys, *as the case may be*], to the amount of  
the said sum, which were the property of the said deceased, and which came  
to the hands of the Defendant as executor [*or* administrator] as aforesaid, to be  
administered :

Wherefore it is ordered, that if the Defendant shall make default in the  
payment of the said sums, the same shall be levied by distress and sale of the  
goods and chattels which were of the said deceased, and which came to the  
hands of the Defendant as executor [*or* administrator], if the Defendant has so  
much thereof in his hands to be administered ; and if he has not, then that the  
said sums shall be levied of the proper goods and chattels of the Defendant.



## 239. [201.]

## JUDGMENT AGAINST AN EXECUTOR OR ADMINISTRATOR WHO ADMITS HIS REPRESENTATIVE CHARACTER AND DENIES THE DEMAND.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff do recover against the Defendant the sum of £                      for                      ,  
and £                      for costs : Order XXX.,  
Rule 5.

And it is ordered that the Defendant do pay the same to the Registrar of this Court on or before the                      day of                      , 19                      [or by instalments of                      for every                      days, the first instalment to be paid on the                      day of                      19                      ] :

And the Defendant having admitted his representative character, but denied the Plaintiff's demand, and the Plaintiff having proved the same, it is further ordered, that if the Defendant shall make default in payment of the said sums, the same shall be levied as follows : The sum of £                      [the debt or damages and costs] of the goods and chattels which were of the said deceased, and which came to the hands of the Defendant as executor [or administrator], if the Defendant has so much thereof in his hands to be administered ; and if he has not, then that the sum of £                      [the costs] be levied of the proper goods and chattels of the Defendant

## 240. [202.]

## JUDGMENT AGAINST AN EXECUTOR OR ADMINISTRATOR WHERE HE ADMITS HIS REPRESENTATIVE CHARACTER, BUT DENIES THE DEMAND, AND ALLEGES TOTAL OR PARTIAL ADMINISTRATION OF ASSETS, AND THE PLAINTIFF PROVES HIS DEMAND, AND THE DEFENDANT PROVES ADMINISTRATION.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff do recover against the Defendant the sum of £                      for                      ,  
and £                      for costs : Order XXX.,  
Rule 6.

And it is ordered that the Defendant do pay the same to the Registrar of this Court on or before the                      day of                      , 19                      [or by instalments of                      for every                      days, the first instalment to be paid on the                      day of                      , 19                      ] :

And the Defendant having admitted his representative character, but denied the Plaintiff's demand, and having also alleged a total [or partial] administration of the goods of the said deceased which came to the hands of the Defendant as executor [or administrator] to be administered, it appears to the Court that the Plaintiff has proved to the Court his demand, and also that the Defendant has proved the administration alleged :

Wherefore it is ordered, that in default of such payment the sum of £                      , being the costs incurred by the Plaintiff in proving his demand, shall be levied of the goods and chattels which were of the said deceased, and which came to the hands of the Defendant as executor [or administrator], if the Defendant has so much thereof in his hands to be administered ; and if he has not then

that the said sum be levied of the proper goods and chattels of the Defendant ; and as to the sum of £                      the Plaintiff's demand, it is ordered that it be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the Defendant as executor [*or administrator*] as aforesaid to be administered.

And it is further ordered, that the Plaintiff do pay to the Registrar of the Court, on or before the                      day of                      19                      , the sum of £                      , being the costs incurred by the Defendant in proving the administration alleged.

*[N.B.—If the Defendant is shown to have some assets, the judgment must be for that amount de bonis testatoris, and for the residue quando acciderint.]*

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241. [203.]

JUDGMENT AGAINST AN EXECUTOR OR ADMINISTRATOR WHERE HE ADMITS HIS REPRESENTATIVE CHARACTER, BUT DENIES THE DEMAND, AND ALLEGES TOTAL OR PARTIAL ADMINISTRATION OF ASSETS, AND THE PLAINTIFF PROVES HIS DEMAND, AND THE DEFENDANT DOES NOT PROVE THE ADMINISTRATION.

Order XXX.  
Rule 7.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff do recover against the Defendant the sum of £                      for                      , and £                      for costs :

And it is ordered that the Defendant do pay the same to the Registrar of this Court on or before the                      day of                      , 19                      [*or by instalments of                      for every                      days, the first instalment to be paid on the                      day of                      , 19                      ]* :

And the Defendant having admitted his representative character, but denied the Plaintiff's demand, and having also alleged a total [*or partial*] administration of the goods of the said deceased which came to the hands of the Defendant as executor [*or administrator*] to be administered, it appears to the Court that the Plaintiff has proved to the Court his demand, and also that the Defendant has not proved the administration alleged :

Wherefore it is ordered, that if the Defendant shall make default in payment of the said sums, the same shall be levied as follows : The sum of £                      [*debt and costs*] of the goods and chattels which were of the said deceased, and which came to the hands of the Defendant as executor [*or administrator*], if the Defendant has so much thereof in his hands to be administered ; and if he has not, then that the residue of the sum of £                      [*debt*] be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the Defendant as executor [*or administrator*] as aforesaid to be administered ; and that the sum of £                      [*the costs*] be levied of the proper goods and chattels of the Defendant.

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## 242. [204.]

JUDGMENT AGAINST AN EXECUTOR OR ADMINISTRATOR WHO ADMITS HIS REPRESENTATIVE CHARACTER AND THE PLAINTIFF'S DEMAND, BUT ALLEGES A TOTAL OR PARTIAL ADMINISTRATION OF ASSETS, AND PROVES THE ADMINISTRATION.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff do recover against the Defendant the sum of £                      for                      ,  
and £                      for costs : Order XXX.,  
Rule 2.

And it is ordered that the Defendant do pay the same to the Registrar of this Court on or before the                      day of                      , 19                      [or by instalment of                      for every                      days, the first instalment to be paid on the day of                      19                      ] :

And the Defendant having admitted his representative character and also the Plaintiff's demand, and having alleged a total [or partial] administration of the goods of the said deceased which came to the hands of the Defendant as executor [or administrator] to be administered, it appears to the Court that the Defendant has proved to the Court the administration alleged :

Wherefore it is ordered, that in default of such payment the said sums of £                      and £                      shall be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the Defendant as executor [or administrator] as aforesaid to be administered.

And it is further ordered that the Plaintiff do pay to the Registrar of this Court, on or before the                      day of                      19                      , the sum of £                      being the costs incurred by the Defendant in proving the administration alleged.

## 243. [205.]

JUDGMENT AGAINST AN EXECUTOR OR ADMINISTRATOR WHO ADMITS HIS REPRESENTATIVE CHARACTER AND THE PLAINTIFF'S DEMAND, BUT ALLEGES A TOTAL OR PARTIAL ADMINISTRATION OF ASSETS, AND DOES NOT PROVE THE ADMINISTRATION.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff do recover against the Defendant the sum of £                      for                      ,  
and £                      for costs : Order XXX.,  
Rule 9.

And it is ordered that the Defendant do pay the same to the Registrar of this Court on or before the                      day of                      , 19                      [or by instalments of                      for every                      days, the first instalment to be paid on the                      day of                      19                      ] :

And the Defendant having admitted his representative character and also the Plaintiff's demand, and having alleged a total [or partial] administration of the goods of the said deceased which came to the hands of the Defendant as executor [or administrator] to be administered, it appears to the Court that the Defendant has not proved to the Court the administration alleged :

Wherefore it is ordered, that if the Defendant shall make default in payment of the said sums, the same shall be levied as follows : The sum of £ [debt and costs] of the goods and chattels which were of the said deceased, and which came to the hands of the Defendant as executor [or administrator], if the Defendant has so much thereof in his hands to be administered ; and if he has not, then that the residue of the sum of £ [debt] be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the Defendant as executor [or administrator] as aforesaid to be administered ; and that the sum of £ [the costs] be levied of the proper goods and chattels of the Defendant.

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244. [206.]

SUMMONS TO AN EXECUTOR WHERE PLAINTIFF INTENDS TO APPLY TO THE COURT WHERE ASSETS HAVE COME TO DEFENDANT'S HANDS SINCE JUDGMENT.

In the County Court of

holden at

Between

A.B.,

[Address.]

[Description.]

Plaintiff,

and

C.D.,

Executor [or Administrator]

of deceased,

[Address.]

[Description.]

Defendant.

Order XXX.,  
Rule 10.

The Plaintiff, having learned that property of the deceased has come to your the above-named (*Defendant's*) hands as executor [or administrator] since the judgment recovered in this action to be administered [*if the Plaintiff alleges waste, add* and that you have withholden and wasted the same], intends to apply to the Judge at a Court to be holden at on the day of , at the hour of in the noon, for an order that the debt [or damages] and costs adjudged to be recovered in this action shall be levied of the goods and chattels of the said deceased, if you have so much thereof in your hands to be administered ; and if you have not, then that the costs shall be levied of your proper goods and chattels [*or if the Plaintiff alleges waste, and if you have not, then that the said debt [or damages] and costs shall be levied of your proper goods and chattels*].

You are therefore hereby summoned to appear at the said Court at the time and place aforesaid, to answer touching the matters aforesaid.

To the Defendant *C.D.*,                      Executor  
[or Administrator] of                      deceased.

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245. [207.]

WARRANT OF EXECUTION AGAINST GOODS OF TESTATOR OR  
INTESTATE.

Whereas at a Court holden at                      on the                      day of  
19   , the Plaintiff obtained a judgment against the Defendant, as executor  
[or administrator] of                      deceased, for                      the sum of  
for                      due and owing to the Plaintiff by the said deceased in his  
lifetime, and the sum of                      for costs of action :

And thereupon it was ordered by the Court that the Defendant should pay  
the same to the Registrar of the Court, on or before the                      day of  
          , 19    [or by instalments of                      for every  
days] :

And whereas default had been made in payment according to the said order :

These are therefore to require and order you forthwith to make and levy by  
distress and sale of the goods and chattels which were the property of the said  
deceased in his lifetime, in the hands of the Defendant to be administered,  
wheresoever they may be found within the district of this Court, the sum  
stated at the foot of this warrant, being the amount due to the Plaintiff under  
the said order, together with the costs of this execution ; and also to seize and take  
any money or bank notes (whether of the Bank of England or of any other  
bank), and any cheques, bills of exchange, promissory notes, bonds, specialties,  
or securities for money, which were the property of the said deceased in his  
life-time, which may there be found, or such part or so much thereof as may be  
sufficient to satisfy this execution, and the costs of making and executing the  
same, if the Defendant has so much thereof in his hands to be administered ;  
and if he has not so much thereof in his hands to be administered, then these  
are to require and order you to make and levy of the proper goods and chattels,  
money or bank notes (whether of the Bank of England or of any other bank),  
and any cheques, bills of exchange, promissory notes, bonds, specialties, or  
securities for money of the Defendant (except the wearing apparel and  
bedding of him or his family, and the tools and implements of his trade, if  
any, to the value of five pounds), the sum of                      for the costs  
of action above mentioned, together with the costs of this execution and of  
making and executing the same, and to pay what you shall have so levied to the

Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court this                      day of  
19 .

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

	£	s.	d.
Debt or damages adjudged ... ..			
Costs ... ..			
Paid into Court ... ..			
Remaining due ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon].			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the Defendant.

Application was made to the Registrar for this warrant at                      minutes  
past the hour of                      in the                      noon of the                      day  
of                      19 .

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

*[Warrants of execution upon Judgments according to Forms 238 to 243 may be drawn from this form, altered accordingly from those forms].*

246. [208.]

JUDGMENT AGAINST AN EXECUTOR ON A DEVASTAVIT SINCE JUDGMENT.

Order XXX.,  
Rule 10

Upon hearing the Plaintiff's application in this action at a Court holden this day, it is adjudged that property of                      deceased has come to the hands of the Defendant as his executor [*or administrator*] since the judgment recovered in this action, to be administered, and that the Defendant has wasted the same property, whereby the judgment recovered herein remains unsatisfied : It is therefore ordered that the Defendant do pay the sum of £                      recovered by [*or remaining due upon*] the said judgment, together with the sum of £                      for the costs of this order, to the Registrar of this Court on or before [*or as the case may be*].

And it is further adjudged that if the Defendant make default in payment thereof, execution may issue to make and levy the above-mentioned sums of the goods and chattels of the said deceased, if the Defendant has so much thereof in his hands to be administered, and if he has not, then to make and levy the same of the proper goods and chattels of the Defendant.

## 247. [210.]

SUMMONS FOR RECOVERY OF POSSESSION OF TENEMENT AGAINST TENANT  
OR OTHER PERSON HOLDING OVER.

[Heading as in Form 22.]

[(a) Issued by leave of the Judge [or Registrar.]

You are hereby summoned to appear at a County Court to be holden at  
on the day of 19 , at the hour of  
in the noon, to answer the Plaintiff, wherefore you neglect or refuse  
to deliver up to him possession of a certain [messuage, with appurtenances, or  
part of a house, &c., or as the case may be,] situate at

Order V.  
Rule 3.(a) Insert  
this when  
necessary.

And take notice, that the Plaintiff claims of you for rent [or mesne profits]  
[or for rent and mesne profits] the sum of for a period from the  
day of 19 to the day of 19 .

And further take notice, that if you do not appear at the said Court, and show  
cause why you do not deliver up possession as aforesaid, the Court may order  
that possession of the said premises be given by you to the Plaintiff forthwith,  
or on or before such day as it shall name, and that if such order be made and  
be not obeyed a warrant may issue to give possession to the Plaintiff.

Dated the day of 19 .

Registrar.

To the Defendant.

	£	s.	d.
Claim for ... ..			
Costs of this summons ... ..			
Solicitor's costs ... ..			

At bottom of Summons.

TAKE NOTICE.—If the Plaintiff in this action be not your immediate land-  
lord, YOU MUST upon your being served with this summons, or if this summons  
shall come to your KNOWLEDGE, forthwith GIVE NOTICE thereof to your  
IMMEDIATE LANDLORD, and if you do NOT give such Notice you will be liable,  
under sect. 140 of the County Courts Act, 1888, to forfeit to your immediate  
landlord THREE YEARS' RACKRENT of the premises held by you of him, in  
respect of which the summons shall have issued.

51 & 52 Vict.  
c. 43. s. 140.

SEE BACK.

[Indorsement as on Form 22, substituting for the words "as to the amount  
due and the mode of payment" in paragraph 2, the words "as to the time when  
possession shall be given, and the amount due for rent and mesne profits, and  
the mode of payment."]

## 248. [211.]

SUMMONS FOR RECOVERY OF POSSESSION OF TENEMENT FOR  
NONPAYMENT OF RENT.

(Heading as in Form 22.)

You are hereby summoned to appear at a Court to be holden at  
on the day of 19 , at the hour of  
in the noon, to answer the Plaintiff why possession of a certain  
situate at should not be given up to the Plaintiff, by reason

Order V.,  
Rule 3

of the rent payable in respect thereof by you being half a year in arrear, and the Plaintiff having right by law to re-enter for the nonpayment thereof.

If you pay to the Registrar the rent in arrear, and the costs of this action, as stated at the foot of this summons, five clear days before the day on which you are required to appear to this summons, this action will cease.

And take notice, that if you do not pay such rent in arrear and costs, or appear at the said Court, and show cause why possession of the said should not be recovered against you, you may be ordered by the Court to give possession of such premises to the Plaintiff, and that if such order be not obeyed a warrant may issue to give possession to the Plaintiff.

Dated this                      day of                      19                      .

Registrar.

	£	s.	d.
Rent in arrear ... ..			
Costs of this summons ... ..			
Solicitor's costs ... ..			

*At bottom of Summons.*

51 & 52 Vict.  
c. 43. s. 140.

TAKE NOTICE.—If the Plaintiff in this action be not your immediate landlord YOU MUST upon being served with this summons, or if this summons shall come to your KNOWLEDGE, forthwith GIVE NOTICE thereof to your IMMEDIATE LANDLORD, and if you do NOT give such NOTICE you will be liable, under sect. 140 of the County Courts Act, 1888, to forfeit to your immediate landlord THREE YEARS' RACKRENT of the premises held by you of him, in respect of which the summons shall have issued.

SEE BACK.

[Indorsement as on Form 22, adding after the words "as to the amount due and the mode of payment" in paragraph 2, the words "and as to the time when possession shall be given."]

249. [213.]

ORDER FOR RECOVERY OF POSSESSION OF TENEMENT AGAINST PERSON HOLDING OVER.

Order V.,  
Rule 3.

Upon the trial of this action at a Court holden this day, it is ordered that the Defendant do give to the Plaintiff possession of a certain house [*or messuages with appurtenances, or part of a certain house, or as the case may be*], situate at                      forthwith [*or on the*                      day of                      ] ;

And it is adjudged that the Plaintiff do recover against the Defendant the sum of £                      for rent [*or mesne profits*] [*or for rent and mesne profits*] and £                      costs, making together the sum of £                      :

And it is ordered, that the Defendant do pay to the Registrar of the Court the sum above mentioned on or before the                      day of 19                      , [*or as may be ordered*].

To the Defendant.



**TAKE NOTICE.**—That if you do not give such possession a warrant may issue requiring the bailiff of the Court to give possession of the said to the Plaintiff, and to levy the sum £ above mentioned, together with further costs.

---

## 250. [212.]

**ORDER FOR RECOVERY OF POSSESSION OF TENEMENT FOR NONPAYMENT OF RENT.**

Upon the trial of this action at a Court holden this day, it is ordered that the Defendant do give to the Plaintiff possession of a certain Order V.,  
Rule 3.  
situate at on or before the day of , 19 , unless the rent in arrear for the said premises, amounting to £ , and the costs of this action, be paid into Court before such day of , 19 .

And it is adjudged that the Plaintiff do recover against the Defendant the sum of £ for costs of this action.

And it is ordered that the Defendant do pay the same to the Registrar of this Court on or before the day of 19 .

To the Defendant.

**TAKE NOTICE.**—That if you do not pay the said rent and costs, or give such possession, a warrant may issue requiring the bailiff of the Court to give possession of the said to the Plaintiff, and to levy the sum of £ above mentioned, together with further costs.

---

## 251. [214.]

**WARRANT FOR RECOVERY OF POSSESSION OF TENEMENT.**

Whereas at a Court holden at on the day of 19 , it was ordered by the Court, that the Defendant should give the Plaintiff possession of a certain [*as in the order*] situate at [and that the Plaintiff should recover against the Defendant the sum of £ for rent [*or mesne profits*] [*or rent and mesne profits*] and costs : Order V.,  
Rule 3.  
Order XXV.,  
Rule 64.

And whereas the Defendant has not obeyed the said order :

These are therefore to authorise and require you to forthwith give possession of the said herein-before mentioned premises to the Plaintiff :

And these are therefore further to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the Defendant, where-soever they may be found within the district of this Court (except the

Given under the seal of the Court, this                      day of  
19 .

Registrar.

	£	s.	d
Rent [ <i>or mesne profits</i> ] [ <i>or rent and mesne profits</i> ] ... ..			
Costs ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon].			

Application was made to the Registrar for this warrant at  
minutes past the hour of                      in the                      noon of the  
day of                      19   .

*For indorsement of fees for execution of warrant, see Form 163.*

(Heading as in Form 22.)

You, the above-named Defendants, and all persons entitled to defend the possession of the property described in the particulars hereunto annexed, situated in the parish of \_\_\_\_\_ within the district of this Court, to the possession whereof the above-named Plaintiffs, some or one of them, claim to be [or to have been on and since the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_] entitled, and to eject all other persons therefrom, are hereby summoned to appear at a County Court to be holden at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, to defend the said property, or such part thereof as you may be advised.

And take notice, that unless you appear judgment may be given, and you may be turned out of possession.

Dated this                      day of                      19 .

Registrar.

To the Defendants.

	£	s.	d.
Costs of this summons ... ..			
Solicitor's costs ... ..			
Total ... ..			

At bottom of Summons.

TAKE NOTICE.—If you, the Defendants, or any of you, be only tenants of the property or some part thereof, YOU MUST, upon being served with this summons, or if this summons shall come to your KNOWLEDGE, forthwith GIVE NOTICE thereof to your IMMEDIATE landlord or his bailiff or receiver, and if you do not give such notice you will be liable, under section 209 of 15 & 16 Vict. c. 76., to FORFEIT to your landlord THREE YEARS' RACKRENT of the premises demised to you or holden in your possession of him, in respect of which this summons has issued.

SEE BACK.  
[Indorsement as on Form 22.]

253. [216.]

NOTICE OF WITHDRAWAL OF ACTION OF EJECTMENT AS TO THE WHOLE OR PART OF THE PROPERTY.

[Not to be printed].

Take notice, that I, the above-named Plaintiff, will not proceed in this action [if so, in respect of the portion of the property herein-after described, that is to say, here describe the said portion of the property].

Plaintiff.

254. [217.]

NOTICE IN ACTION OF EJECTMENT OR FOR RECOVERY OF POSSESSION THAT A PERSON NOT ORIGINALLY MADE A DEFENDANT WILL APPEAR AND DEFEND.

Take notice, that M.N. has filed the affidavit, a copy of which is hereunto annexed, and that by leave of the Court he will appear at the trial as a Defendant.

To the Plaintiff.

## 255. [218.]

NOTICE IN ACTION OF EJECTMENT OR FOR RECOVERY OF POSSESSION THAT  
DEFENDANT WILL LIMIT HIS DEFENCE TO PART OF THE PROPERTY.[*Not to be printed*].Order X.,  
Rule 5.

Take notice, that the above-named Defendant *K.L.* will at the trial of this action limit his defence to a part only of the property mentioned in the particulars annexed to the summons; that is to say, [*here describe the part to which the defence is limited, with reasonable certainty*].

To the Registrar of the Court,  
and to the Plaintiff.

## 256. [219.]

CONFESSION IN EJECTMENT BY DEFENDANT OF PLAINTIFF'S TITLE TO  
THE PROPERTY.[*Not to be printed*].Order IX.,  
Rule 7.

I, the above-named Defendant, hereby confess and admit the Plaintiff's title to the property mentioned in the particulars annexed to the summons in this action, and sought to be recovered therein, and that the Plaintiff is entitled to the immediate possession thereof.

Dated this                      day of                      19 .

Defendant.

Signed by the Defendant in the presence of ,

To the Registrar of the Court.

[*To be altered as required, in case of confession in action for recovery of tenement; see Form 65.*]

## 257. [220.]

JUDGMENT IN EJECTMENT FOR ALL THE PLAINTIFFS FOR THE WHOLE  
PROPERTY.

\* The day on which the summons issued, or the day stated in the summons as that on which the title of Plaintiffs accrued.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiffs were, on the\*                      day of                      19 , and still are entitled to the possession of the property mentioned in the particulars annexed to the summons in this action; that is to say, [*describe the property as set out in the particulars*].

And it is ordered that the Defendants do give the Plaintiffs possession of the said above mentioned property forthwith [*or on the*                      day of                      ]:

And it is adjudged that the Plaintiffs do recover against the Defendants the sum of £                      for costs.

And it is ordered that the Defendants do pay to the Registrar of this Court  
the sum above mentioned on or before the                      day of                      19     .

To the Defendants.

TAKE NOTICE.—That if possession be not given and payment made as above ordered, a warrant may issue requiring the bailiff of the Court to give possession of the said property to the Plaintiffs, and to levy the sum above mentioned, together with further costs.

258. [221.]

JUDGMENT IN EJECTMENT FOR ALL THE PLAINTIFFS FOR PART OF THE  
PROPERTY AGAINST ONE OF THE DEFENDANTS, AND FOR THE OTHER  
DEFENDANTS AS TO THE RESIDUE OF THE PROPERTY.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiffs were, on the                      day of                      19                      , and still are entitled to the possession of part of the property mentioned in the particulars annexed to the summons in this action ; that is to say [*describe the part the Plaintiffs are adjudged entitled to*] and for which part the Defendant *G.H.* defended separately ; but that the Plaintiffs were not nor are entitled to the possession of the residue of the property described in the particulars annexed to the summons, for which the Defendants *I.J.*                      and *K.L.* defended :

And it is ordered that the Defendant *G.H.* do give the Plaintiffs possession of the said part of the said property, for which the said *G.H.* defended separately, forthwith [*or on the* day of 19 ] :

And it is adjudged that the Plaintiffs do recover against the Defendant *G.H.*  
the sum of £ for costs, and that the Defendants  
*I.J.* and *K.L.* do recover against the Plaintiffs the  
sum of £ for costs.

And it is ordered that the Defendant *G.H.* do pay the said sum of £                      and the Plaintiffs do pay the said sum of £                      to the Registrar of this Court, on or before the                      day of                      19                      .

To the Defendant *G.H.* and to the Plaintiffs.

**TAKE NOTICE.**—That unless possession be given and payment made as above ordered, a warrant or warrants may issue, requiring the bailiff of the Court to give possession of the said property to the Plaintiffs, and to levy the sums above mentioned from the parties ordered to pay the same respectively, together with further costs.

## 259. [222.]

JUDGMENT IN EJECTMENT FOR ONE OF THE PLAINTIFFS FOR ALL THE  
PROPERTY AGAINST ALL THE DEFENDANTS.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff *A.B.* was, on the day of 19 , and still is entitled to the possession of the property mentioned in the particulars annexed to the summons in this action ; that is to say [*describe the property as set out in the particulars annexed to the summons*] ;

And it is ordered that the Defendants do give the said Plaintiff *A.B.* possession of the said above-mentioned property forthwith, [*or on the day of* ] ;

And it is adjudged that the said Plaintiff *A.B.* do recover against the Defendants the sum of £ for costs.

And it is ordered that the Defendants do pay to the Registrar of this Court the sum above-mentioned on or before the day of 19 .

To the Defendants.

TAKE NOTICE.—That unless possession be given and payment made as above ordered, a warrant may issue, requiring the bailiff of the Court to give possession of the said property to the Plaintiff *A.B.* and to levy the sum above-mentioned, together with further costs.

## 260. [223.]

JUDGMENT IN EJECTMENT FOR PLAINTIFF WHOSE TITLE HAS  
EXPIRED BEFORE TRIAL.

Order XXIII,  
Rule 16. Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff was on the day of 19 , and thence until and at the time of the entry of the plaint and of the service of the summons in this action, entitled to the possession of the property mentioned in the particulars annexed to the summons in this action ; that is to say [*here describe the property as set out in the particulars*], but his title to the same has since that time and before this day expired ;

And it is further adjudged that the Plaintiff do recover against the Defendant the sum of £ for costs :

And it is ordered that the Defendant do pay to the Registrar of this Court the sum above mentioned on or before the day of 19 .

## 261. [224.]

## JUDGMENT IN EJECTMENT FOR DEFENDANT.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff was not on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ nor thence hitherto hath been nor is he now entitled to the possession of the property or of any part of the property mentioned in the particulars annexed to the summons in this action ; that is to say [*here describe the property as set out in the particulars*] :

And it is adjudged that judgment be entered for the Defendant, and that the Defendant do recover against the Plaintiff the sum of £ \_\_\_\_\_ for costs :

And it is ordered that the Plaintiff do pay the same to the Registrar of this Court on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ .

To the Plaintiff.

## 262. [225.]

## ORDER IN EJECTMENT FOR DEFENDANT'S COSTS, WHERE PLAINTIFF DOES NOT APPEAR.

Whereas the Plaintiff has not appeared, either by himself or his solicitor at the Court holden this day, being the day appointed for the trial of this action, and the Defendant has appeared in person [*or by his solicitor*] :

It is therefore ordered that the action be struck out, and that the Defendant do recover against the Plaintiff the sum of £ \_\_\_\_\_ for costs :

And it is ordered that the Plaintiff do pay the same to the Registrar of this Court on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ .

To the Plaintiff.

## 263. [226.]

## WARRANT OF POSSESSION.

Whereas, according to the tenor and true meaning of an order, bearing date the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, made in this action, the said Defendant *C.D.* was ordered to deliver up possession to *A.B.* in the said order named of all that, &c. [*as in order*] : Order XXV.,  
Rule 64.

And whereas a copy of such order was duly served upon the said *C.D.*, yet nevertheless he the said *C.D.* and other ill-disposed persons, his accomplices, have refused to pay obedience thereto, and detain and keep the possession of the said messuage [*or tenement and premises*] :

These are therefore to authorise and require you to forthwith enter into and upon the said messuage [or tenement and premises], and to remove, eject, and expel the said *C.D.* his tenants, servants, and accomplices, each and

expel the said *C.D.* his tenants, servants, and accomplices, each and every of them, out of and from the said messuage [*or tenement and premises*], and every part and parcel thereof, and to place and put the said *A.B.*

and his assigns into the full, peaceable and quiet possession thereof, and to defend and keep him and his said assigns in such peaceable and quiet possession when and as often as any interruption may or shall from time to time be given or offered to them or any of them, according to the true intent and meaning of the said order ; and herein you are not in anywise to fail.

Given under the seal of the Court, this                      day of                      19 .

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

NOTE.—The above form is given as an example of a warrant of possession issued pursuant to an order in an action other than an action of ejectment.

## 264. [227.]

WARRANT OF POSSESSION IN EJECTMENT FOR POSSESSION AND COSTS.

Order XXV.,  
Rule 64.

Whereas at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, it was adjudged that the Plaintiffs on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, and at the date of the judgment were entitled to the possession of the property mentioned in the particulars annexed to the summons in this action ; that is to say [*describe the property as set out in the particulars*] ; and it was ordered that the Defendants should give the Plaintiffs possession of the said above-mentioned property forthwith [*or on the \_\_\_\_\_ day of \_\_\_\_\_*] ; and it was adjudged that the Plaintiffs should recover against the Defendants the sum of £ \_\_\_\_\_ for costs ; and it was ordered that the Defendants should pay the said sum to the Registrar of this Court forthwith [*or on the \_\_\_\_\_ day of \_\_\_\_\_*] :

And whereas the Defendants have not obeyed the said order :

These are therefore to authorise and require you to forthwith give possession of the said herein-before mentioned property to the Plaintiff :

[And these are therefore further to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the Defendants wheresoever they may be found within the district of this Court (except, as regards each Defendant, the wearing apparel and bedding of such Defendant or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the Plaintiff under the said order, together with the costs of this warrant and execution ; and also to seize and take any money or bank notes (whether of the Bank of England or any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialities, or securities for money, of the Defendants which may be there found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same, and to



pay the amount so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.]

Given under the seal of the Court, this                      day of                      19 .

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

	£	s.	d.
Costs adjudged ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon.]			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the Defendants.

Application was made to the Registrar for this warrant at  
minutes past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the  
day of \_\_\_\_\_ 19 \_\_\_\_.

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

NOTE.—When separate warrants are required for possession and costs, pursuant to Order XXV., Rule 66, the words in brackets should be omitted, and Form 163, so far as it relates to costs, used. Form 165 should be used for Defendant's costs.

265. [228.]

SPECIAL WARRANT OF POSSESSION IN EJECTMENT FOR POSSESSION AND COSTS, WHERE ONE OF SEVERAL PLAINTIFFS HAS DIED AFTER JUDGMENT AND BEFORE EXECUTION EXECUTED.

Whereas at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, it was adjudged that the Plaintiffs on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, and at the date of the judgment were entitled to the possession of the property mentioned in the particulars annexed to the summons in this action, that is to say [*describe the property as set out in the particulars*]; and it was ordered that the Defendants should give the Plaintiffs possession of the said above-mentioned property forthwith [*or as in the judgment*]; and it was adjudged that the Plaintiff should recover against the Defendants the sum of £ \_\_\_\_\_ for costs; and it was ordered that the Defendants should pay the said sum to the Registrar of this Court forthwith [*or as in the judgment*]:

Order XXV.,  
Rule 64.

And whereas the Defendants have not obeyed the said order :

And whereas *C.D.*, one of the Plaintiffs, has died since judgment was given and before execution executed :

These are therefore to authorise and require you to forthwith give possession of the said herein-before mentioned premises to the surviving Plaintiffs *A.B.* and *E.F.* on behalf of themselves and of the legal representatives of the deceased Plaintiff *C.D.*

And these are therefore further, &c. [*conclude as in last form*].

## 266. [229.]

JUDGMENT IN EJECTMENT FOR PLAINTIFF, WHERE DEFENDANT IS JOINT TENANT, TENANT IN COMMON, OR COPARCENER WITH PLAINTIFF, AND AN ACTUAL OUSTER IS PROVED.

51 & 52 Vict.  
c. 43. s. 59.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff and Defendant were on the                      day of 19   , and still are entitled to the joint possession of the property mentioned in the particulars annexed to the summons in this action as joint tenants [*or as tenants in common or as coparceners*]; that is to say, [*describe the property as set out in the particulars*]:

And it having been proved to the satisfaction of the Court that the Defendant did before the commencement of this action actually oust the Plaintiff from the possession of the said property, and thence hitherto hath kept and still keeps the Plaintiff ousted therefrom, it is adjudged and ordered that judgment be entered for the Plaintiff, and that the Defendant do give the Plaintiff jointly with him the Defendant possession of the said above-mentioned property forthwith [*or on the*                      day of                      ], and that the Plaintiff do recover against the Defendant the sum of £                      for costs:

And it is ordered that the Defendant do pay to the Registrar of this Court the sum above-mentioned on or before the                      day of                      19   .

To the Defendant.

TAKE NOTICE.—That if possession be not given and payment made as above ordered, a warrant may issue, requiring the bailiff of the Court to give possession of the said property to the Plaintiff jointly with the Defendant, and to levy the sum above mentioned, together with further costs.

## 267. [230.]

JUDGMENT IN EJECTMENT FOR DEFENDANT, WHERE DEFENDANT IS JOINT TENANT, TENANT IN COMMON, OR COPARCENER WITH PLAINTIFF, AND NO ACTUAL OUSTER IS PROVED.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff and the Defendant were on the                      day of 19   , and still are entitled to the joint possession of the property mentioned in the particulars annexed to the summons in this action as joint tenants [*or as tenants in common or as coparceners*]; that is to say, [*describe the property as set out in the particulars*]:

And it not having been proved to the satisfaction of the Court that the Defendant has actually ousted the Plaintiff from the possession of the said property or of any part thereof, it is adjudged and ordered that judgment be entered for the Defendant, and that the Defendant do recover against the Plaintiff the sum of £                      for costs.

And it is ordered that the Plaintiff do pay to the Registrar of this Court the sum above mentioned on or before the                      day of                      19   .

To the Plaintiff.

## 268. [231.]

ORDER IN EJECTMENT FOR SUBSTITUTION OF PERSONAL REPRESENTATIVE  
OF SOLE PLAINTIFF WHO DIES BEFORE THE RETURN DAY FOR SUCH  
DECEASED PLAINTIFF, AND FOR CONTINUATION OF ACTION IN NAME  
OF SUCH REPRESENTATIVE.

Upon reading the affidavit of *E.F.*, \_\_\_\_\_, and upon hearing the  
solicitors of the said *E.F.* \_\_\_\_\_ and of the Defendant, and it  
appearing to the Court that the Plaintiff *A.B.* \_\_\_\_\_ died on  
the \_\_\_\_\_ day of \_\_\_\_\_ now last past, and since the  
commencement of this action, and that the said *E.F.* \_\_\_\_\_ is the  
personal representative of the said *A.B.* \_\_\_\_\_ and as such is  
entitled to whatever estate or interest the said *A.B.* \_\_\_\_\_ had in  
the property sought to be recovered in this action [*or as the case may be*],

It is ordered that the name of the said *E.F.* \_\_\_\_\_ as personal  
representative [*or as the case may be*], of *A.B.* \_\_\_\_\_ deceased  
be substituted in the proceedings in this action for the name of the said  
*A.B.* \_\_\_\_\_ deceased as Plaintiff in this action, and that the  
said *E.F.* \_\_\_\_\_ be at liberty to continue this action in his own  
name as Plaintiff, and to proceed therein as if he had been originally the  
Plaintiff therein, and that the said *E.F.* \_\_\_\_\_ do pay to the  
Registrar of this Court, on or before the \_\_\_\_\_ day of  
19 \_\_\_\_\_, the sum of £ \_\_\_\_\_ for the costs occasioned to the Defendant  
by this application, and that the trial of this action be forthwith proceeded with  
[*or be adjourned to the* \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_].

To the Defendant.

N.B.—In explanation of this form it may be mentioned that after the  
amendment the title of the action will stand thus :—

Between		
<i>E.F.</i> (the personal representative of <i>A.B.</i> , the original Plaintiff, deceased)	and	Plaintiff,
<i>C.D.</i>		Defendant.

## 269. [232.]

ORDER IN EJECTMENT FOR SUBSTITUTION OF PERSONAL REPRESENTATIVE  
OF ONE OF SEVERAL PLAINTIFFS WHO DIES BEFORE THE RETURN DAY  
FOR SUCH DECEASED PLAINTIFF, AND FOR CONTINUATION OF ACTION  
IN NAMES OF SURVIVING PLAINTIFF AND PERSONAL REPRESENTATIVE  
OF DECEASED PLAINTIFF.

Upon reading the affidavit of *K.L.*, \_\_\_\_\_ and upon hearing the solicitor  
of the said *K.L.* \_\_\_\_\_ and of the Defendants, and it appearing to the  
Court that the Plaintiff *C.D.* \_\_\_\_\_ died on the \_\_\_\_\_ day of \_\_\_\_\_ now last

past, and since the commencement of this action, and that the said *K.L.* is the personal representative [*or as the case may be*] of the said *C.D.*, and as such is entitled to whatever estate or interest the said *C.D.* had in the property sought to be recovered in this action,

It is ordered that the name of the said *K.L.* as personal representative [*or as the case may be*] of *C.D.* deceased be substituted in the proceedings in this action for the name of the said *C.D.* deceased as one of the Plaintiffs, and that the action be continued and proceeded with in the names of *A.B.* and *K.L.*, as Plaintiffs as if the said *A.B.* and *K.L.* had been originally the Plaintiffs therein, and that the said *K.L.* do pay to the Registrar of this Court on or before the                      day of                      19                      , the sum of £                      for the costs occasioned to the Defendants by this application, and that the trial of this action be forthwith proceeded with [*or be adjourned to the                      day of                      19                      .*]

To the Defendants.

---

270. [233.]

JUDGMENT IN EJECTMENT FOR SUBSTITUTED PLAINTIFF.

	No. of Plaintiff.
In the County Court of                      holden at                      .	
Between	
<i>E.F.</i> , the personal representative of <i>A.B.</i> [ <i>the original Plaintiff</i> ] deceased	Plaintiff,
and	
<i>C.D.</i>	Defendant.

Whereas the Plaintiff *A.B.*,                      died after the commencement of this action, and before the return day of the summons therein, and by an order of the Court made this day [*or on the                      day of                      last*] it was ordered, amongst other things, that the name of the said *E.F.*,                      as personal representative of *A.B.*                      deceased, should be substituted in the proceedings in this action for the name of the said *A.B.*                      deceased as Plaintiff, and that the action should be continued in the name of the said *E.F.*                      as Plaintiff as aforesaid :

Now, upon the trial of this action at a Court holden this day, it is adjudged that the said *A.B.*,                      on the                      day of                      19                      , and thence until the day of his death, was entitled to the possession of the property mentioned in the particulars annexed to the summons in this action ; that is to say [*describe the property as set out in the particulars*] ; and that the

said Plaintiff *E.F.* is the personal representative of the said *A.B.*  
 and as such became on the death of the said *A.B.*  
 and still is entitled to the possession of the said above-mentioned property ;

And it is ordered that the Defendant do give the Plaintiff *E.F.*  
 possession of the said above-mentioned property forthwith [*or* on the  
 day of 19 ] ;

And it is adjudged that the Plaintiff *E.F.* do recover against  
 the Defendant the sum of £ for costs :

And it is ordered that the Defendant do pay to the Registrar of this Court the  
 sum above-mentioned on or before the day of  
 19 .

Given under the seal of the Court this day of 19 .

By the Court,

Registrar.

To the Defendant.

TAKE NOTICE.—That if possession be not given and payment made as above  
 ordered, a warrant may issue, requiring the bailiff of the Court to give possession  
 of the said property to the Plaintiff, and to levy the sum above-mentioned,  
 together with further costs.

## 271. [234.]

### JUDGMENT IN EJECTMENT FOR SURVIVING AND SUBSTITUTED PLAINTIFFS.

No. of Plaintiff.

In the County Court of holden at .

Between

*A.B.* and *K.L.*, the personal representative of *C.D.*

(one of the original Plaintiffs) deceased

Plaintiffs,

and

*E.F.* and *G.H.*

Defendants.

Whereas one of the Plaintiffs, *C.D.*, died after the commence-  
 ment of this action and before the return day of the summons therein, and by  
 an order of this Court made this day [*or* on the day of  
 last] it was ordered, amongst other things, that the name of the said *K.L.*

as personal representative of *C.D.* deceased, should be  
 substituted in the proceedings in this action for the name of the said *C.D.*

deceased, as one of the Plaintiffs, and that the action  
 should be continued in the names of the said *A.B.* and *K.L.*

as Plaintiffs as aforesaid :

Now upon the trial of this action at a Court holden this day, it is adjudged that the said *A.B.* and *C.D.* deceased were on the                      day of                      19                      , and thence until the day of the death of the said *C.D.*                      entitled to the possession of the property mentioned in the particulars annexed to the summons in this action, that is to say [*describe the property as set out in the particulars*]; and that the said Plaintiff *K.L.*                      is the personal representative of the said *C.D.*                      deceased and that on the death of the said *C.D.*,                      the said *A.B.* and *K.L.*                      became and still are entitled to the possession of the property in the said particulars mentioned ;

And it is ordered that the Defendants do give the Plaintiffs *A.B.* and *K.L.*                      possession of the property above mentioned and described forthwith [*or on the*                      day of                      19                      ].

And it is adjudged that the Plaintiffs *A.B.*                      and *K.L.*                      do recover against the Defendants the sum of £                      for costs :

And it is ordered that the Defendants do pay to the Registrar of this Court the sum above mentioned on or before the                      day of                      19                      .

Given under the seal of the Court this                      day of                      19                      .

By the Court,

Registrar.

To the Defendants.

TAKE NOTICE, &c. [*as in Form 270*].

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## 272. [235.]

### ORDER IN EJECTMENT GIVING LEAVE TO A PARTY CLAIMING THE PROPERTY ON DEATH OF DEFENDANT, WHO DIES BEFORE THE RETURN DAY, TO APPEAR AND DEFEND IN PLACE OF SUCH DECEASED DEFENDANT.

Upon reading the affidavit of *E.F.*                      and upon hearing the solicitors of the said *E.F.*                      and of the Plaintiff, and it appearing to the Court that the Defendant has died since the commencement of this action, and that upon the death of the Defendant the said *E.F.*                      became entitled to whatever estate or interest the Defendant *C.D.*                      had in the property sought to be recovered in this action,

It is ordered that the said *E.F.*                      be at liberty to appear and defend the said property above mentioned and described in the place of the said *C.D.*,                      deceased, and that the name of the said *E.F.*                      be substituted for that of the said *C.D.*                      deceased as Defendant in the proceedings in this action, and that this action be continued as if the said *E.F.*                      had been originally made Defendant therein ; and that the said *E.F.*                      do pay to the Registrar of this Court on or before the                      day of                      19                      ,

the sum of £                      for the costs occasioned to the Plaintiff by this application,  
and that the trial of this action be forthwith proceeded with [*or be adjourned*  
to the                      day of                      19    ].

To the Plaintiff.

[N.B.—In explanation of this form it may be mentioned that after the amendment the title of the action will stand thus :

	Between	
A.B.,		Plaintiff,
	and	
E.F. (substituted for C.D., deceased),		Defendant,

and all subsequent proceedings will be against E.F. as if he had been originally Defendant.]

### 273. [236.]

#### JUDGMENT IN EJECTMENT FOR PLAINTIFF WHO HAS WITHDRAWN THE ACTION AS TO PART OF THE PROPERTY.

Whereas the Plaintiff has withdrawn this action as to part of the property mentioned in the particulars annexed to the summons in this action ; that is to say [*describe the part of the property as set out in Plaintiff's notice*], and the action has proceeded for the recovery of the remainder of the said property : (See Form 253.)

Now upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff was on the                      day of                      19    , and still is entitled to the possession of the remainder of the property mentioned in the particulars annexed to the summons in this action ; that is to say [*describe the remainder of the property*] :

And it is ordered that the Defendant do give the Plaintiff possession of the said lastly above-mentioned property forthwith [*or on the                      day of                      19* ] :

And it is adjudged that the Plaintiff do recover against the Defendant the sum of £                      for costs :

And it is ordered that the Defendant do pay to the Registrar of this Court the sum above mentioned on or before the                      day of                      19    .

To the Defendant.

TAKE NOTICE, &c. [*as in Form 270*].

[N.B.—If the judgment be that Plaintiff recover part only of the remainder of the property, or be for the Defendant, this Form must be altered accordingly.]

[Not to be printed.]

I, C.D., one of the above-named Defendants, defending separately for [*here describe the part for which C.D. defends*], being part of the property mentioned in the particulars annexed to the summons in this action, and for which no other person defends, do hereby confess and admit the Plaintiff's title to the above-mentioned part of the said property, and that he is entitled to the immediate possession thereof.

Signed by *C.D.*, one of the Defendants, in the presence of \_\_\_\_\_,  
To the Registrar of the Court.

275. [238.]

Whereas C.D., one of the Defendants, defending separately for *[here describe the part for which C.D. defends]*, being part of the property mentioned in the particulars annexed to the summons in this action, and for which no other person defends, has confessed and admitted the Plaintiff's title to the said part of the said property, and that the plaintiff is entitled to the possession thereof ;

Now, upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff was on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, and still is entitled to the possession of the remainder of the property mentioned in the particulars annexed to the summons in this action ;

And it is adjudged that the Plaintiff do recover against the Defendant  
*C.D.* the sum of £ for costs, and against the Defendant  
*E.F.* the sum of £ for costs :



And it is ordered that the Defendants do respectively pay the said sums above mentioned to the Registrar of this Court on or before the                      day of                      19                      .

To the Defendants.

TAKE NOTICE.—That unless possession be given and payment made as above ordered, a warrant or warrants may issue, requiring the bailiff of the Court to give possession of the said property to the Plaintiff, and to levy the sums above mentioned, together with further costs.

[N.B.—*If the judgment be that Plaintiff recover part only of the remainder of the property, or be for the Defendant, the above Form must be altered accordingly.*]

---

276. [239.]

NOTICE IN EJECTMENT BY MORTGAGEE AGAINST MORTGAGOR THAT DEFENDANT HAS PAID INTO COURT A SUM OF MONEY FOR PRINCIPAL, INTEREST, AND COSTS.

Take notice, that the Defendant has paid into Court the sum of £                      as being all that is due for principal and interest upon the mortgage upon which this action is brought, and for costs; and further take notice, that if you are willing to accept the said sum so paid into Court you need not appear on the return day of the summons; but if you do not agree to accept the said sum so paid in as aforesaid, you should appear at the Court on that day, as the Court will then proceed to determine whether the said sum of £                      so paid into Court as aforesaid is sufficient to satisfy all such principal, interest, and costs as aforesaid, and will in either case make such order in the matter as to the Court shall seem fit.

Dated this                      day of                      19                      .

Registrar.

To the Plaintiff.

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277. [240.]

ORDER IN EJECTMENT BY MORTGAGEE AGAINST MORTGAGOR (ALL MONEY DUE FOR PRINCIPAL, INTEREST, AND COSTS HAVING BEEN PAID INTO COURT) UPON PLAINTIFF TO RECONVEY TO DEFENDANT THE MORTGAGED PROPERTY.

Whereas this action is brought to recover possession of certain property mortgaged by the Defendant to the Plaintiff, and the Defendant has paid into Court the sum of £                      for principal, interest, and costs due upon or in respect of the said mortgage :

Now upon the trial of this action at a Court holden this day, the Plaintiff not appearing, [*or the Plaintiff agreeing to accept the said sum of £                      for such principal, interests, and costs, as aforesaid, or the Plaintiff alleging that*

the said sum of £                      is not sufficient to satisfy such principal, interest, and costs as aforesaid,] it is adjudged that the said sum is sufficient to satisfy such principal, interest, and costs as aforesaid :

And it is ordered that within                      days from this day the Plaintiff do, at the costs and charges of the Defendant, reconvey to the Defendant the mortgaged property for the recovery of which this action is brought, and do deliver up to the Defendant all title deeds and writings relating thereto.

To the Plaintiff and to the Defendant.

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278. [241.]

ORDER IN EJECTMENT BY MORTGAGEE AGAINST MORTGAGOR (A CERTAIN SUM HAVING BEEN PAID INTO COURT FOR PRINCIPAL, INTEREST, AND COSTS), THAT DEFENDANT SHALL PAY A FURTHER SUM INTO COURT, AND THAT UPON SUCH PAYMENT BEING MADE PLAINTIFF SHALL RECONVEY THE MORTGAGED PROPERTY TO DEFENDANT.

Whereas this action is brought to recover possession of certain property mortgaged by the Defendant to the Plaintiff, and the Defendant has paid into Court the sum of £                      for principal, interest, and costs due upon or in respect of the said mortgage :

Now upon the trial of this action at a Court holden this day, the Plaintiff refusing to accept the said sum so paid into Court as aforesaid, it is adjudged that the said sum of £                      is not sufficient to satisfy the principal, interest, and costs due upon or in respect of the said mortgage, and that the further sum of £                      is due from the Defendant to the Plaintiff for the same :

And it is ordered that the Defendant do on or before the                      day of                      19                      , pay to the Registrar of this Court the said last-mentioned sum, together with £                      for the Plaintiff's costs in this action, and that upon the said sums of £                      and £                      , amounting together to the sum of £                      , being paid into Court on or before the said                      day of                      19                      , the Plaintiff do, within                      days from the said last-mentioned day, at the costs and charges of the Defendant, reconvey to the Defendant the mortgaged property for the recovery of which this action is brought, and deliver up to him all title deeds and writings relating thereto :

And it is further ordered that if the Defendant shall not, on or before the said                      day of                      19                      , pay the said last-mentioned sum, then execution shall forthwith issue on the application of the Plaintiff for the recovery of the possession of the property described in the particulars annexed to the summons in this action, and for the sum of £                      [*the costs of this action*], together with the costs of the execution ; and the Registrar shall return the money paid into Court to the Defendant.

To the Plaintiff and to the Defendant.

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## 279. [242.]

PARTICULARS OR STATEMENT OF CAUSE OF ACTION UNDER SECTION 60 OF  
THE COUNTY COURTS ACT, 1888.[*Not to be printed.*]

A. The Plaintiff is possessed of a cottage, and by reason thereof is entitled to a right of way from and to the said cottage, over and through a certain inclosed yard of the Defendant, to a certain spring of water, for the purpose of getting water from the said spring, and the Defendant has prevented the Plaintiff from using the said way and having thereby access to the said spring, and still hinders and prevents him therefrom; and neither the annual value nor the yearly rent of the lands, tenements, or hereditaments, in respect of which or on, through, or over which such easement is claimed, exceeds the sum of £50; and the Plaintiff claims £ damages.

51 & 52 Vict.  
c. 43, s. 60.  
Order VI.,  
Rule 4.  
Interruption  
of right of  
way.

B. The Plaintiff is possessed of a cottage and premises, and by reason thereof is entitled to have all the sewage and waste water arising on and from the said cottage and premises flow along and through a drain through and under the surface of a garden in the occupation of Defendant into a cesspool there, and the Defendant, by stopping up the said drain, has prevented and still prevents such sewage and waste water from flowing through and along the said drain into the said cesspool; and neither, &c. [*as in the last Form*], and the Plaintiff claims £2 damages.

Interruption  
of drainage.

C. The Plaintiff was possessed of a house, in which there were divers windows, and by reason thereof was entitled to the free access of air and light into the said house through the said windows, and the Defendant by building a wall close to and in front of the said windows has darkened the Plaintiff's house, and prevented and still prevents the access of light and air into the Plaintiff's house as the Plaintiff before enjoyed the same; and neither the annual value nor the yearly rent of either Plaintiff's house, or of the land on which the Defendant has built the said wall, exceeds the sum of £50; and the Plaintiff claims £ damages.

Obstruction  
of light  
and air.

[*The above Forms are given merely as examples, and the statement in all cases must be in accordance with the right claimed, and be as concise as possible*].

## 280. [72.]

PARTICULARS OF PLAINTIFF'S DEMAND OR CAUSE OF ACTION IN  
ACTION OF CONTRACT ORDERED TO BE TRIED IN A COUNTY COURT.[*Not to be printed.*]

In the County Court of

holden at

Between

A.B.,

Plaintiff,

[*Address and Description.*]

and

C.D.,

Defendant.

[*Address and Description.*]

51 & 52 Vict.  
c. 43. s. 65.  
Order  
XXXIII.,  
Rule 1.

Being an action of contract commenced in the High Court of Justice, and sent by order of a Judge [*or Master or District Registrar*] thereof under section 65 of The County Courts Act, 1888, to be tried in this Court.

This action is brought for [*state the particulars of the Plaintiff's demand or cause of action according to the facts, adding*]

Above are the Particulars of the Plaintiff's demand [*or cause of action*].

Dated this

day of

19 .

A.B., Plaintiff,

*or*

E.F., Plaintiff's Solicitor.

To the Registrar of the Court  
and to the Defendant.

### 281. [73.]

#### NOTICE OF TRIAL OF ACTION OF CONTRACT ORDERED TO BE TRIED IN A COUNTY COURT.

[*Heading as in Form 280.*]

51 & 52 Vict.  
c. 43. s. 65.  
Order  
XXXIII.,  
Rule 1.

Being an action of contract commenced in the High Court of Justice, and sent by order of a Judge [*or Master or District Registrar*] thereof under section 65 of the County Courts Act, 1888, to be tried in this Court.

Take notice, that this action will be tried at a Court to be holden on  
the day of at o'clock in the noon.

Dated this

day of

19 .

Registrar.

To the Plaintiff and Defendant.

[*N.B.—To the notice sent to the Defendant the Registrar must annex a copy of the Plaintiff's particulars of demand or cause of action, where given.*]

### 282. [75.]

#### STATEMENT OF PLAINTIFF'S CAUSE OF ACTION IN ACTION OF TORT REMITTED FOR TRIAL IN A COUNTY COURT.

[*Not to be printed.*]

[*Heading as in Form 280.*]

51 & 52 Vict.  
c. 43. s. 66.  
Order  
XXXIII.,  
Rule 1.

Being an action of tort commenced in the High Court of Justice, and remitted by order of a Judge [*or Master or District Registrar*] thereof, under section 66 of the County Courts Act, 1888, to be tried in this Court.

Malicious  
prosecution.

A. The Defendant maliciously and without reasonable or probable cause laid an information before E.F., a Justice of the Peace for the County of , against the Plaintiff, for having feloniously stolen a bushel of wheat belonging to the Defendant, upon which charge the Plaintiff was committed to the County Gaol at , and was there imprisoned for two

months, and the Defendant afterwards maliciously and without reasonable or probable cause caused the Plaintiff to be prosecuted, indicted, and tried at the last assizes for the said county upon the said charge, when the Plaintiff was acquitted, and the prosecution came to an end, by reason whereof the Plaintiff was injured in his person and character, and was put to expense in defending himself against the said charges ; and the Plaintiff claims £100 damages.

B. The Defendant wrongfully and unlawfully gave the Plaintiff into the custody of a policeman, and caused him to be handcuffed, and to be imprisoned in a police station, and thence to be taken in custody to a police office, and there to be further imprisoned, whereby the Plaintiff was put to expense in procuring his liberation from such imprisonment and in finding bail for his subsequent appearance before a Justice of the Peace ; and the Plaintiff claims £30 damages. Illegal arrest.

C. The Defendant, under a certain distress for rent due from the Plaintiff to him, seized and sold more goods and chattels of the Plaintiff both in quantity and value than were reasonably sufficient to satisfy the arrears of rent due, and the costs of the distress ; and the Plaintiff claims £20 damages. Illegal distress.

D. The Defendant assaulted, beat, and wounded the Plaintiff, in consequence whereof the Plaintiff suffered much pain, and was confined to his bed, and put to expense in obtaining medical advice and attendance to cure him of the injuries inflicted by such beating and wounding ; and the Plaintiff claims £100 damages. Assault.

E. The Defendant falsely and maliciously wrote and published of and concerning the Plaintiff the words following : "*he is a liar, a blackguard, and a scoundrel ;*" and the Plaintiff claims £200 damages. Libel.

F. The Defendant falsely and maliciously caused to be printed and published of and concerning the Plaintiff in the way of his trade as a grocer, the words following : "*Mr. A.B. sands his sugar and dusts his pepper,*" whereby the Plaintiff was injured in his trade, and lost the custom of several persons, particularly X, Y, and Z, who had before dealt at the Plaintiff's shop ; and the Plaintiff claims £50 damages. Libel of Plaintiff in the way of his trade.

G. The Defendant falsely and maliciously spoke and published of and concerning the Plaintiff the words following : "*A.B. is a thief, and stole Mr. Brown's ducks ;*" and the Plaintiff claims £30 damages. Slander.

H. The Defendant falsely and maliciously spoke and published of and concerning the Plaintiff, in the way of his business and calling as a ratcatcher, the words following : "*A.B. is a great rogue, and instead of doing his best to kill the rats he encourages the breed, so that he may have more employment from the farmers,*" whereby the Plaintiff was injured in his business, and several farmers, particularly X, Y, and Z, who had usually employed him to kill the rats on their farms, ceased to do so ; and the Plaintiff claims £20 damages. Slander of Plaintiff in the way of his calling.

J. The Defendant debauched and carnally knew M.G., then being the daughter and servant of the Plaintiff, whereby the said M.G. became pregnant, and was delivered of a child ; and the Plaintiff thereby lost her Seduction.

The proceeding transferred is an issue to try whether certain goods seized by the Sheriff of Middlesex, under an execution from the High Court in an

action in which the said *E.F.* was Plaintiff and *I.K.* was Defendant, are the property of the said *A.B.*, the claimant, or of the said *E.F.*, the execution creditor.

I request that the said issue may be entered for hearing.

Claimant.

To the Registrar.

285. [New.]

NOTICE OF HEARING OF INTERPLEADER TRANSFERRED FROM  
HIGH COURT.

[Commence as in Form 280.]

Being a proceeding by way of interpleader directed to be transferred to this Court by an order of the High Court of Justice dated the                      day                      19                      .  
Order XXXIII., Rule 9.

Take notice, that this proceeding will be heard at a Court to be holden at                      on                      the                      day of                      19                      , at o'clock in the                      noon.

Dated this                      day of                      19                      .

Registrar of the County Court  
of                      holden at

To the Claimant and the  
Execution Creditor and  
to Messrs.  
the London Agents of  
the Sheriff of                      .

NOTE.—*The Claimant is called upon, five clear days at least [or, if the time has been reduced under Order XXXIII., Rule 13(2)(a), clear days at least] before the day of hearing, to lodge with the Registrar of this Court, at his office situate at                      two copies of the particulars of the goods and chattels alleged to be the property of the Claimant, and of the grounds of his claim; and the Registrar is required to forthwith send by post to the execution creditor one of the copies of such particulars; Order XXXIII., Rule 10.*  
Order XXXIII., Rule 10.

286. [243.]

NOTICE TO DISTRAINER OF GOODS OR CATTLE INTENDED TO BE  
REPLEVIED.

In the County Court of

holden at

Take notice, that *A.B.*                      of, &c., whose goods [*or cattle*] you have distrained, intends to replevy the same, and has proposed as his sureties for the due prosecution of an action of replevin against you in the [*here mention the Court in which the action is to be brought*], *E.F.*

of, &c.,                      and *G.H.*                      of, &c.,                      and that if you have any valid objection to make to the proposed sureties, or either of them, you must attend at [*here insert place of office of Registrar*], on the                      day of                      19                      , at the hour of when the bond will be submitted to me for approval.

*J. K.*,

Registrar.

To  
of

## 287. [244.]

## BOND IN REPLEVIN WHERE ACTION TO BE COMMENCED IN HIGH COURT.

[*Not to be printed*].

51 & 52 Vict.  
c. 43. s. 135.

(\*) The dis-  
trainer.

Know all men by these presents, that we, *A.B.* of, &c., *C.D.* of, &c., and *E.F.* of, &c., are held and firmly bound unto *G.H.* (\*) of, &c., in the sum of £ , to be paid to the said *G.H.* or his certain attorney, executors, administrators, or assigns; for which payment to be well and truly made we bind ourselves and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this                      day of  
one thousand nine hundred and                      .

I approve of  
this bond.

*I.K.*,  
Registrar.  
(L.S.)  
*This bond does  
not require  
a stamp.*

Whereas the above-named *C.D.* and *E.F.*, at the request of the said *A.B.* have agreed to enter into the above-written obligation, and this security has been approved of by                      , the Registrar of the County Court of                      holden at                      , as appears by his allowance in the margin hereof ;

Now the condition of this obligation is such, that if the above-bounden *A.B.* do and shall within one week from the date of the said obligation commence an action of replevin against the above-named *G.H.* in the High Court of Justice, for taking and unjustly detaining certain goods and chattels of the said                      , to wit,                      [*here insert the description of the goods and chattels*], and prosecute such action with effect and without delay, and unless judgment be obtained thereon by default, do and shall prove before the said Court that he the said                      had good ground for believing that the title to the hereditament in respect of which the distress was made was in question [*or that the title to a toll or market or fair or franchise was in question*], [*or that the alleged rent or damage in respect of which the distress was made exceeded twenty pounds*], and do and shall also make return of the said goods and chattels, if return thereof shall be adjudged, then this obligation shall be void and of no effect, otherwise the same shall be and remain in full force.

*A.B.*                      (L.S.)  
*C.D.*                      (L.S.)  
*E.F.*                      (L.S.)

Signed, sealed, and delivered by the above bounden in the presence  
of

51 & 52 Vict.  
c. 43. s. 109.

NOTE.—*If a deposit of money be made, the memorandum thereof should follow the terms of the conditions of the bond, and will not require a stamp.*



## 288. [245.]

## BOND IN REPLEVIN WHERE ACTION TO BE COMMENCED IN COUNTY COURT.

[Not to be printed.]

Know all men by these presents, that we *A.B.* of, &c., of *C.D.* of &c., and *E.F.* of &c., are held and firmly bound unto *G.H.* (\*) of, &c., in the sum of £ , to be paid to the said *G.H.*, or his certain attorney, executors, administrators, or assigns; for which payment to be well and truly made we bind ourselves and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

(\*) The dis-  
trainer.

Sealed with our seals, and dated this                      day of                      one thousand nine hundred and

Whereas the above-named *C.D.* and *E.F.*, at the request of the said *A.B.*, have agreed to enter into the above-written obligation, and this security has been approved of by                      , the Registrar of the County Court of                      holden at                      , as appears by his allowance in the margin hereof :

I approve of  
this bond.  
*I.K.*,  
Registrar.  
(L.S.)  
*This bond does  
not require a  
stamp.*

Now the condition of this obligation is such, that if the above-bounden *A.B.* do and shall within one month from the date of the said obligation commence an action of replevin against the above-named *G.H.* in the County Court of                      holden at                      , for taking and unjustly detaining certain goods and chattels of the said                      , to wit, [here insert the description of the goods and chattels], and prosecute such action with effect and without delay, and do and shall also make return of the said goods and chattels, if return thereof shall be adjudged, then this obligation shall be void and of no effect, otherwise the same shall be and remain in full force.

*A.B.*                      (L.S.)  
*C.D.*                      (L.S.)  
*E.F.*                      (L.S.)

Signed, sealed, and delivered by the above bounden in the presence of

NOTE.—If a deposit of money be made, the memorandum thereof should follow the terms of the conditions of the bond, and will not require a stamp. 51 & 52 Vict.  
c. 43. s. 109.

## 289. [246.]

## WARRANT TO HIGH BAILIFF TO REPLEVY.

In the County Court of                      }  
holden at                      .

Whereas                      hath given security as well to commence his action of replevin against                      for taking and unjustly detaining certain goods and chattels [or cattle] of the said                      that is to say (insert description of the goods and chattels); and prosecute such action with effect and without delay, as also to make return of the said goods and chattels if return thereof shall be adjudged :

Now, as Registrar of the above-mentioned County Court, and by virtue of the provisions of the County Courts Act, 1888, I hereby authorise and direct you without delay to replevy and deliver the said goods and chattels [*or cattle*] to the said \_\_\_\_\_, and forthwith to return to me this warrant and what you shall have done under the same.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Registrar.

To the High Bailiff of the Court.

In obedience to this warrant, I have replevied and caused to be delivered to the within-named \_\_\_\_\_ the within-mentioned goods and chattels [*or cattle*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

High Bailiff.

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(*For Judgment for Plaintiff in Replevin, see Form 151 (1).*)

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#### 290. [247.]

##### JUDGMENT FOR DEFENDANT IN REPLEVIN FOR RENT.

Order  
XXXIV.,  
Rules 3, 4.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff do return to the Defendant the goods and chattels [*or cattle*], hereinafter mentioned, that is to say [*state the particulars thereof*], and do pay to the Registrar of the Court, forthwith [*or on the \_\_\_\_\_ day of \_\_\_\_\_*] the sum of £ \_\_\_\_\_ for costs of action [*or, It is adjudged that the amount due for rent in arrear from the Plaintiff to the Defendant is £ \_\_\_\_\_, and that the goods and chattels [*or cattle*] of the Plaintiff taken and detained by the Defendant were of the value of £ \_\_\_\_\_, and that the Plaintiff do forthwith [*or on the \_\_\_\_\_ day of \_\_\_\_\_*] pay to the Registrar of this Court the said sum of £ \_\_\_\_\_, and also the sum of £ \_\_\_\_\_ for the Defendant's costs.*]

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#### 291. [248.]

##### JUDGMENT FOR DEFENDANT IN REPLEVIN OF CATTLE DAMAGE FEASANT.

Order  
XXXIV.,  
Rules 3, 5.

Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff do return to the Defendant the cattle hereinafter mentioned, that is to say [*here specify the cattle*], [*or do pay to the Registrar of this Court forthwith*] [*or on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_*], the sum of £ \_\_\_\_\_, which is now adjudged to be the amount of damage sustained by the Defendant] :

It is also adjudged that the Plaintiff do pay to the Registrar of this Court forthwith [*or on the day aforesaid*] the sum of £ \_\_\_\_\_ for the Defendant's costs.

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Upon the trial of this action at a Court holden this day, it is adjudged that the Plaintiff do recover against the Defendant the following goods and chattels of the Plaintiff wrongfully detained by the Defendant; that is to say, [*here enumerate the chattels which the Court decides to have been detained*] or £                      their value, and also the sum of £                      for damages for the detention of the said goods and chattels, and the sum of £                      for costs.

[And it is ordered that the Defendant do return the said goods and chattels to the Plaintiff, or do pay the said sum of £                      their value to the Registrar of this Court on the                      day of                      19 .]

And it is further ordered that the Defendant do pay the said sums of  
£                      and £                      for damages and costs to the Registrar  
of this Court on the                      day of                      19     .

*If the Judge makes an order at the trial for a return of the goods and chattels without giving the Defendant the option of returning them, omit the words in brackets and substitute the following:—*

And it is ordered that the Defendant do return the said goods and chattels to the Plaintiff on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that in default of his so doing a warrant of delivery do issue.

Order XXV,  
Rule 69.

## 293. [250.]

Whereas at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day \_\_\_\_\_, 19\_\_\_\_, the Plaintiff obtained a judgment against the Defendant for the recovery of [here enumerate the goods and chattels which the Court has ordered to be recovered of the Defendant], and thereupon it was ordered by the Court that the Defendant should return the said goods and chattels to the Plaintiff on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that in default of his so doing a warrant of delivery should issue :

And whereas the Defendant did not on the said \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, return the said goods and chattels to the Plaintiff :

These are therefore to require and order you forthwith to seize the said goods and chattels so not returned as aforesaid, wheresoever they may be found within the district of this Court, and to deliver the same to the Plaintiff :

And if the same cannot be found by you within such district, you are required and ordered to distrain all the lands and chattels of the Defendant, wheresoever they may be found within the district of this Court, and them hold until the Defendant shall deliver the said goods and chattels to you, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court this                      day of                      19                      .

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

Application was made to the Registrar for this warrant at \_\_\_\_\_ minutes  
past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_.

## 294. [251.]

WARRANT OF DELIVERY OF GOODS, AND OF EXECUTION FOR DAMAGES  
AND COSTS.Order XXV.,  
Rules 69, 70.

Whereas at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day  
of \_\_\_\_\_ 19\_\_\_\_, the Plaintiff obtained a judgment against the  
Defendant for the recovery of [*here enumerate the goods and chattels which  
the Court has ordered to be recovered of the Defendant*], and for the payment  
of £ \_\_\_\_\_ for damages for the detention of the said goods and chattels,  
and of £ \_\_\_\_\_ for costs; and thereupon it was ordered by the Court  
that the Defendant should return the said goods and chattels to the Plaintiff  
on the \_\_\_\_\_ day of \_\_\_\_\_, and that in default of his so doing  
a warrant of delivery should issue; and it was further ordered that the Defen-  
dant should pay the said sums of £ \_\_\_\_\_ and £ \_\_\_\_\_ for  
damages and costs to the Registrar of this Court on the \_\_\_\_\_ day of \_\_\_\_\_

And whereas the Defendant did not on the said \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_, return the said goods and chattels to the Plaintiff, and default has been  
made in payment according to the said order :

These are therefore to require and order you forthwith to seize the said  
goods and chattels so not returned as aforesaid, wheresoever they may be found  
within the district of this Court, and to deliver the same to the Plaintiff :

And if the same cannot be found by you within such district, you are  
required and ordered to distrain all the lands and chattels of the Defendant,  
wheresoever they may be found within the district of this Court, and them  
hold until the Defendant shall deliver the said goods and chattels to you ;

And these are further to require and order you forthwith to make and levy  
by distress and sale of the goods and chattels of the Defendant, wheresoever  
they may be found within the district of this Court, (except the wearing apparel  
and bedding of him or his family, and the tools and implements of his trade, if  
any, to the value of five pounds), the sum stated at the foot of this warrant, being  
the amount due to the Plaintiff under the said order, together with the costs  
of this execution ; and also to seize and take any money or bank notes (whether  
of the Bank of England or of any other bank), and any cheques, bills of  
exchange, promissory notes, bonds, specialties, or securities for money of the  
Defendant, which may there be found, or such part or so much thereof as may  
be sufficient to satisfy this execution and the costs of making and executing the  
same, and to pay what you shall have so levied to the Registrar of this Court,  
and to make return of what you have done under this warrant immediately  
upon the execution thereof.

Given under the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

	£	s.	d.
Damages for detention of goods ... ..			
Costs ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon].			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the Defendant.

Application was made to the Registrar for this warrant at \_\_\_\_\_ minutes  
past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the \_\_\_\_\_ day of  
19 .

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

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295. [252.]

WARRANT OF DELIVERY WHERE, IF GOODS ARE NOT RETURNED, LEVY  
IS TO BE MADE FOR THEIR VALUE.

Whereas at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day Order XXV.  
of 19 , the Plaintiff obtained a judgment against the Defendant Rules 69, 70.  
for the recovery of [*here enumerate the goods and chattels which the Court has*  
*ordered to be recovered of the Defendant*], or £ \_\_\_\_\_ their value, and for  
the payment of £ \_\_\_\_\_ for damages for the detention of the said goods  
and chattels, and of £ \_\_\_\_\_ for costs; and thereupon it was ordered by  
the Court, that the Defendant should return the said goods and chattels to the  
Plaintiff or pay the said sum of £ \_\_\_\_\_ their value, to the Registrar of  
this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19 ; and it  
was further ordered that the Defendant should pay the said sums of  
£ \_\_\_\_\_ (*damages for the detention*) and £ \_\_\_\_\_ (*costs*) to  
the Registrar of this Court on the \_\_\_\_\_ day of \_\_\_\_\_ :

And whereas the Defendant did not on the said \_\_\_\_\_ day of  
19 , return the said goods and chattels to the Plaintiff, and default has been  
made in payment according to the said order :

These are therefore to require and order you forthwith to seize the said goods  
and chattels so not returned as aforesaid, wheresoever they may be found within  
the district of this Court, and to deliver the same to the Plaintiff :

And if the same cannot be found by you within such district, you are  
required and ordered to make and levy by distress and sale of the goods and  
chattels of the Defendant, wheresoever they may be found within the district  
of this Court, (except the wearing apparel and bedding of him or his family,  
and the tools and implements of his trade, if any, to the value of five pounds),  
the said sum of £ \_\_\_\_\_ (*the assessed value of the goods and*  
*chattels*) :

And you are further required and ordered to make and levy by distress and  
sale of the goods and chattels of the Defendant, wheresoever they may be found  
within the district of this Court, (except as herein-before excepted the wearing  
apparel and bedding of him or his family, and the tools and implements of his  
trade, if any, to the value of five pounds), the said sums of £ \_\_\_\_\_  
(*damages for detention*) and £ \_\_\_\_\_ (*costs*), together with the costs  
of this execution :

And also to seize and take any money or bank notes (whether of the Bank  
of England or of any other bank), and any cheques, bills of exchange, pro-  
missory notes, bonds, specialties, or securities for money of the Defendant,  
which may there be found, or such part or so much thereof as may be sufficient

to satisfy this execution and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court this                      day of                      19   .  
By the Court,

Registrar.

To the High Bailiff of the said Court, and others the Bailiffs thereof.

	£	s.	d
Assessed value of the goods and chattels    ...    ...    ...    ...			
Damages for detention of goods    ...    ...    ...    ...			
Costs ...    ...    ...    ...    ...    ...    ...    ...    ...			
Poundage for issuing this warrant    ...    ...    ...    ...    ...			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon].			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the Defendant.

Application was made to the Registrar for this warrant at                      minutes  
past the hour of                      in the                      noon of the                      day of  
19   .

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

## 296. [253].

### ORDER FOR SPECIFIC PERFORMANCE OF CONTRACT TO DELIVER SPECIFIC OR ASCERTAINED GOODS, UNDER SECTION 52 OF THE SALE OF GOODS ACT, 1893.

56 & 57 Vict.  
c. 71. s. 52.

Upon the trial of this action (the same being for breach of contract to deliver specific goods for a price in money) at a Court holden this day, it being adjudged that the Plaintiff is entitled to recover, it is, upon the application of the Plaintiff, found and adjudged that the goods in respect of the non-delivery of which the Plaintiff is entitled to recover, and which remain undelivered, are as follows; (that is to say,) [*here enumerate the goods undelivered*]; and that the Plaintiff would have been liable to pay the sum of £                      [*here insert the sum to be paid by Plaintiff for the delivery*] for the delivery thereof; and that the Plaintiff will have sustained damages to the amount of £                      [*here insert the sum assessed for damages if the goods be delivered*] if the said goods shall be delivered as herein-after mentioned, and to the amount of £                      [*here insert the sum assessed for damages in the event of the non-delivery of the goods*] if the said goods shall not be so delivered: And thereupon judgment being now given for the Plaintiff, it is, upon the application of the Plaintiff, ordered that the said goods be delivered by the Defendant to the

Plaintiff, on the payment by the Plaintiff of the said sum of £ [here insert the sum to be paid by Plaintiff for the delivery], on or before the day of now next ensuing, and that in default thereof execution do issue for the delivery to the Plaintiff, on payment by the Plaintiff of the said sum of £ [here insert the sum to be paid by Plaintiff for the delivery], of the said goods; and that the Defendant shall not have the option of retaining the same upon payment of the damages lastly assessed in the event of the non-delivery of the goods; and that the Plaintiff do recover against the Defendant the said sum of £ [here insert the sum assessed for damages if the goods be delivered] for damages and for costs:

And it is ordered that the Defendant do pay the said last-mentioned sums of £ and £ to the Registrar of this Court on or before the day of 19 :

And it is further ordered that if the said goods or any part thereof cannot be found within the district of this Court, the bailiff of this Court shall distrain the Defendant by all his lands and chattels within the district of this Court till the Defendant deliver the said goods, or, at the option of the Plaintiff, the said bailiff shall cause to be made of the Defendant's goods the said sum secondly above assessed for damages, or a due proportion thereof.

#### 297. [254.]

DISTRINGAS FOR DELIVERY OF GOODS, AND WARRANT OF EXECUTION AGAINST DEFENDANT'S GOODS FOR THE AMOUNT OF DAMAGES (SUPPOSING THE GOODS DELIVERED UNDER THE DISTRINGAS) AND COSTS, UNDER SECTION 52 OF THE SALE OF GOODS ACT, 1893.

Whereas at a Court holden at on the day of 19, the Plaintiff obtained a judgment against the Defendant for the delivery to the Plaintiff, upon payment by the Plaintiff of the sum of £ [here insert the sum to be paid by Plaintiff for the delivery], of the following goods; that is to say, [here enumerate the goods enumerated in the judgment]; and by the said judgment it was found and adjudged that the Plaintiff would have sustained damages to the amount of £ [here insert the sum assessed for damages if the goods be delivered] if the said goods should be delivered to the Plaintiff, and to the amount of £ [here insert the sum assessed for damages in the event of the non-delivery of the goods] if the said goods should not be so delivered; and judgment being then given for the Plaintiff, it was thereupon ordered that the said goods should be delivered by the Defendant to the Plaintiff on payment by the Plaintiff of the said sum of £ [here insert the sum to be paid by Plaintiff for the delivery] on or before the day of 19, and that in default thereof execution should issue for delivery to the Plaintiff, on payment by the Plaintiff of the said sum of £ [here insert the sum to be paid by the Plaintiff for the delivery], of the said goods, and that the Defendant should not have the option of retaining the said goods upon payment of the said sum of £ [here insert the sum assessed for damages in the event of the non-delivery of the goods], and that the Plaintiff

56 & 57 Vict.  
c. 71. s. 52.  
Order XXV.  
Rules 69, 70.

should recover against the Defendant the said sum of £ [here insert the sum assessed for damages if the goods be delivered] for damages, and £ for costs; and that the Defendant should pay the said last-mentioned sums of £ and £ to the Registrar of this Court on or before the day of 19 :

And it was further ordered that if the said goods or any part thereof should not be found within the district of this Court, the bailiff of this Court should distrain the Defendant by all his lands and chattels within the district of this Court till the Defendant should deliver the said goods, or, at the option of the Plaintiff, the said bailiff should cause to be made of the Defendant's goods the said sum of £ [here insert the sum assessed for damages in the event of the non-delivery of the goods], or a due proportion thereof :

And whereas the said goods have not been delivered according to the said order, and the said sum of £ so payable by the Plaintiff as aforesaid has been paid to the Registrar of this Court, and the Plaintiff has not expressed his option to have the said sum of £ [here insert the sum assessed for damages in the event of the non-delivery of the goods], or a due proportion thereof, made of the goods of the Defendant :

These are therefore to require and order you forthwith to seize the said goods so not delivered as aforesaid, wheresoever they may be found within the district of this Court, and to deliver the same to the Plaintiff, and to pay over to the Defendant upon seizure of the said goods the said sum of £ [here insert the sum to be paid by the Plaintiff for the delivery] which is delivered to you together with this warrant :

And if the said goods cannot be found by you within such district, you are required and ordered to distrain all the lands and chattels of the Defendant, wheresoever they may be found within the district of this Court, and them hold until the Defendant shall deliver the said goods to you :

And you are further required and ordered to make and levy, by distress and sale of the goods and chattels of the Defendant, wheresoever they may be found within the district of this Court, (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the Plaintiff under the said order, together with the costs of this execution; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the Defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court, this day of 19

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.



	£	s.	d
Amount assessed for damages if the goods be delivered ... ..			
Sum adjudged for costs ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon].			

NOTICE.—The goods and chattels seized for damages and costs are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the Defendant.

Application was made to the Registrar for this warrant at \_\_\_\_\_ minutes  
past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_.

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

[N.B.—When a Plaintiff sues out this warrant, he must pay to the Registrar the amount found by the judgment to be payable by the Plaintiff for the delivery of the goods, and the Registrar must hand over such amount to the bailiff with this warrant, for the bailiff to pay to the Defendant, if either the Defendant delivers the goods to the bailiff or the bailiff obtains possession of them under this warrant.]

298. [255.]

WARRANT OF EXECUTION AGAINST DEFENDANT'S GOODS, UNDER SECTION 52 OF THE SALE OF GOODS ACT, 1893, WHERE PLAINTIFF EXERCISES THE OPTION OF HAVING THE DAMAGES ASSESSED FOR THE NON-DELIVERY OF THE GOODS (WHERE THE GOODS ARE NOT DELIVERED PURSUANT TO THE ORDER) LEVIED BY DISTRESS AND SALE OF DEFENDANT'S GOODS.

Whereas at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, the Plaintiff obtained a judgment against the Defendant for the delivery to the Plaintiff, upon payment by the Plaintiff of the sum of £ [here insert the sum to be paid by Plaintiff for the delivery] of the following goods; that is to say [here enumerate the goods enumerated in the judgment]; and by the said judgment it was found and adjudged that the Plaintiff would have sustained damages to the amount of £ [here insert the sum assessed for damages if the goods be delivered] if the said goods should be delivered to the Plaintiff, and to the amount of £ [here insert the sum assessed for damages in the event of the non-delivery of the goods] if the said goods should not be so delivered; and judgment being then given for the Plaintiff, it was thereupon ordered that the said goods be delivered by the Defendant to the Plaintiff, on payment by the Plaintiff of the said sum of [here insert the sum to be paid by the Plaintiff for the delivery], on or before the \_\_\_\_\_ day of \_\_\_\_\_, and that in default thereof execution should issue for the delivery to the Plaintiff, on payment by the Plaintiff of the said sum of £ [here insert the sum to be paid by Plaintiff for the delivery], of the said goods, and that the Defendant should not have the option of retaining the said goods upon

payment of the said sum of £ [here insert the sum assessed for damages in the event of the non-delivery of the goods], and that the Plaintiff should recover against the Defendant the said sum of £ [here insert the sum assessed for damages if the goods be delivered] for damages, and £ for costs; and that the Defendant should pay the said last mentioned sums of £ and £ to the Registrar of this Court on or before the day of 19 :

And it was further ordered that if the said goods or any part thereof should not be found within the district of this Court, the bailiff of this Court should distrain the Defendant by all his lands and chattels within the district of this Court till the Defendant should deliver the said goods, or, at the option of the Plaintiff, the said bailiff should cause to be made of the Defendant's goods the said sum of £ [here insert the sum assessed for damages in the event of the non-delivery of the goods], or a due proportion thereof :

And whereas the said goods have not been delivered according to the said order, and the Plaintiff has expressed his option to have the said sum of £ [here insert the sum assessed for damages in the event of non-delivery of the goods] made of the goods and chattels of the Defendant :

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the Defendant, wheresoever they may be found within the district of this Court, (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the Plaintiff under the said order, together with the costs of this execution ; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the Defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court this day of 19 .

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

	£	s.	d.
Amount assessed for damages if the goods be not delivered ...			
Sum adjudged for costs ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon].			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the Defendant.

Application was made to the Registrar for this warrant at \_\_\_\_\_ minutes  
past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the \_\_\_\_\_ day  
of \_\_\_\_\_ 19 .

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

299. [256.]

ORDER APPOINTING RECEIVER OF REAL AND PERSONAL ESTATE.

Upon the application of \_\_\_\_\_ and upon reading an affidavit of \_\_\_\_\_ Order XIII.,  
and upon hearing \_\_\_\_\_ Rule 1.

It is ordered that \_\_\_\_\_ of \_\_\_\_\_ be appointed [*if so ordered*, without giving security] to receive the rents and profits of the real and leasehold estates and to get in the outstanding personal estate of \_\_\_\_\_ the testator [*or* intestate] named in the particulars annexed to the summons in this action; and the tenants of the real and leasehold estates are to attorn and pay their rents in arrear and growing rents to such receiver :

And it is ordered that the Defendants, the executors of the testator [*or* administrators of the intestate], do deliver over to such receiver all securities in their hands for such outstanding personal estate, together with all books and papers relating thereto.

And it is ordered that the said \_\_\_\_\_ do on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19 , give security pursuant to Order XIII., Rule 2, of the County Court Rules in the sum of £ \_\_\_\_\_ .

[*Add, if so ordered*, And the Plaintiff undertaking to be responsible for the acts and defaults of the said receiver until such security is given, it is further ordered that the said receiver be at liberty to act at once.]

300. [257.]

ORDER APPOINTING RECEIVER OF PARTNERSHIP.

Upon the application of \_\_\_\_\_ and upon reading an affidavit of \_\_\_\_\_ Order XIII.,  
and upon hearing \_\_\_\_\_ Rule 1.

It is ordered that \_\_\_\_\_ of \_\_\_\_\_ be appointed [*if so ordered*, without giving security] to collect, get in, and receive the debts now due and outstanding and other assets and property belonging to the partnership business of \_\_\_\_\_ at \_\_\_\_\_ and out of the first moneys received to pay the debts due from the said business :

And it is further ordered that the Plaintiff and Defendant respectively do deliver over to the said                      all the stock-in-trade and effects of the said partnership, and also all securities in their or either of their hands for such outstanding partnership estate, together with all books and papers relating thereto.

[And it is ordered that the said                      do on or before the                      day of                      19                      , give security pursuant to Order XIII., Rule 2, of the County Court Rules in the sum of £                      .]

[*Add, if so ordered,* And the Plaintiff undertaking to be responsible for the acts and defaults of the said receiver until such security is given, it is further ordered that the said receiver be at liberty to act at once.]

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301. [258.]

NOTICE TO RECEIVER TO PRODUCE HIS ACCOUNTS FOR AUDIT.

Order XIII.,  
Rule 6.

You are hereby required, on or before the                      day of                      19                      , to leave at my office your accounts as receiver in this action [*or matter*], duly verified by affidavit, and to attend at my office aforesaid on                      the                      day of                      19                      , at                      o'clock in the                      noon, for the purpose of having such accounts audited; and you are required to bring with you all receipts, papers, and vouchers necessary for verifying such accounts.

To *E.F.*,  
Receiver in this action [*or matter*].

---

302. [259.]

ORDER ON RECEIVER TO PAY TO BENEFICIARY.

[*Not to be printed.*]

Order XIII.,  
Rule 10.

Upon the application of                      it is ordered that *E.F.*, of                      appointed by an order of this Court, dated the                      day of                      , the receiver in this action [*or matter*], do pay at the end of each quarter to                      the moneys received by him during the quarter as such receiver, after deducting his own remuneration and all other proper disbursements; and that he be allowed such payments in passing his accounts.

[NOTE.—*Where the Court at the time of appointing the receiver adds a direction to this effect, it can be prepared from this form.*]

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## 303. [260.]

## BOND TO BE GIVEN BY RECEIVER.

[*Not to be printed.*]

Know all men by these presents, that we, *E.F.*, of, &c., and *I.K.*, of, &c., and *L.M.*, &c., are jointly and severally held and firmly bound to *G.H.*, Registrar of the County Court of \_\_\_\_\_ holden at \_\_\_\_\_, in the sum of £ \_\_\_\_\_, to be paid to the said *G.H.*, or his certain attorney, executors, administrators, or assigns; for which payment to be well and truly made we bind ourselves, and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Order XIII.,  
Rule 2.

Sealed with our seals, and dated this \_\_\_\_\_ day of \_\_\_\_\_ one thousand nine hundred and \_\_\_\_\_.

Whereas an action has been commenced in this Court by *A.B.* against *C.D.* for the purpose of [*here insert object of action*] :

And whereas the said *E.F.* has been appointed, by order of the above-mentioned Court, to receive the rents and profits of the real [*or freehold, or copyhold, or leasehold*] estate [*or estates*] [*and to get in the outstanding personal estate*] of *N.O.*, the testator in the said action named :

Now the condition of this obligation is such, that if the above-bounden *E.F.* do and shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the real estates, and in respect of the personal estate, of the said *N.O.* [*or as may be*] at such periods as the said Court shall appoint, and do and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court has directed or shall hereafter direct, then this obligation shall be void and of none effect, otherwise the same shall remain in full force and virtue.

*E.F.* (L.S.)*I.K.* (L.S.)*L.M.* (L.S.)

Signed, sealed, and delivered by the above-bounden \_\_\_\_\_ in the presence of \_\_\_\_\_.

NOTE.—*If deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond, and will not require a stamp.*

## 304. [261.]

## ORDER FOR ACCOUNTS AND INQUIRIES.

[*Not to be printed, but to be used as a precedent.*]

This Court doth order that the following accounts and inquiry be taken and made; that is to say, Order XII.,  
Rule 5.

1. An account of the personal estate not specifically bequeathed of *N.O.*, deceased, the testator in the particulars in this action named, come to the hands of the Defendants *C.D.* and *X.Y.*, the executors of his will, or of either of them, or to the hands of any other person by the order or for the use of the said Defendants or either of them.

2. An account of the testator's debts.
3. An account of the testator's funeral expenses.
4. An account of the legacies and annuities (if any) given by the testator's will.
5. An inquiry what parts (if any) of the testator's personal estate are outstanding or undisposed of.

And it is ordered that the testator's personal estate not specifically bequeathed be applied in payment of his debts and funeral expenses in a due course of administration, and then in payment of the legacies and annuities (if any) given by his will.

*(If ordered.)*

And it is ordered that the following further inquiries and accounts be made and taken ; that is to say,

6. An inquiry what real estate the testator was seised of or entitled to at the time of his death.
7. An account of the rents and profits of the testator's real estate received by the Defendants *C.D.* and *X.Y.*, the executors of his will, or either of them, or by any other person by the order or for the use of the said Defendants or either of them.
8. An inquiry what incumbrances (if any) affect the testator's real estate, or any and what parts thereof.

*(If sale ordered.)*

9. An account of what is due to such of the incumbrancers as shall consent to the sale herein-after directed in respect of their incumbrances.

10. An inquiry what are the priorities of such last-mentioned incumbrances.

And it is ordered that the testator's real estate be sold with the approbation of the Judge, free from the incumbrances (if any) of such of the incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent, and that the money to arise by the sale of the testator's real estate be paid into Court to the credit of this action, to an account entitled "Proceeds of sale of the testator's real estate," subject to further order ; and if such money shall arise from real estate sold with the consent of incumbrancers, the money so arising is to be applied in the first place in payment of what shall appear to be due to such incumbrancers according to their priorities.

11. And it is ordered that \_\_\_\_\_ shall have the conduct of the sale of the said real estate, and shall prepare the conditions and contracts of sale, and the abstract of title, subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall, with the like approval, be submitted to \_\_\_\_\_, Esquire, to settle.

12. And it is further ordered that for the purpose of the inquiries herein-before directed the Registrar shall advertise in the newspapers according to the practice of the Court, or shall make such inquiries in any other way which shall appear to the Registrar to give the most useful publicity to such inquiries.

13. And it is ordered that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the day of \_\_\_\_\_, and that the Registrar do certify the result of the inquiries and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of \_\_\_\_\_.

And it is ordered that the further consideration of this cause be adjourned, and any of the parties are to be at liberty to apply to the Court as they may be advised.

[*Such part only of this order is to be used as is applicable to the particular case.*]

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305. [262.]

ORDER FOR SALE OF PERSONAL ESTATE.

[*Not to be printed.*]

It appearing to me that it will be for the benefit of the estate that the remaining outstanding debts be sold, I do order that the debts now due to the estate of *N.O.*, the testator [*or* intestate] mentioned in the Plaintiff's particulars of claim, be sold as soon as conveniently may be by \_\_\_\_\_ [the receiver] by private contract [*or* public auction] for the highest price that can be obtained for the same.

Order  
XXIII.,  
Rule 23.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

Judge.

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306. [263.]

ORDER FOR SALE OF REAL ESTATE.

[*Not to be printed.*]

It appearing to me that it is necessary for carrying out the objects of this action that the real estate [*or* part of the real estate] of the deceased be sold, I do order that all that freehold [*copyhold or leasehold*] messuage or tenement, &c. [*setting out parcels as in last conveyance*], being the real [*or* part of the real] estate of *N.O.*, late of \_\_\_\_\_ in the county of \_\_\_\_\_, deceased, the testator [*or* intestate] mentioned in the Plaintiff's particulars of claim, be offered for sale by public auction at the \_\_\_\_\_ Hotel at \_\_\_\_\_ by Mr. \_\_\_\_\_, auctioneer, and be then and there sold, subject to a reserved price to be fixed by the Court [*or* to the highest bidder without reserve].

Order  
XXIII.,  
Rule 18.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

Judge.

## 307. [264.]

## ORDER FOR REFERENCE IN FORECLOSURE ACTION BY MORTGAGEE.

[*Not to be printed.*]

It is ordered that it be referred to the Registrar to take an account of what is due to the Plaintiff for principal and interest under or by virtue of the indenture of mortgage dated the       day of       mentioned in the particulars in this action (making allowance on one side or the other for any rents or profits received by the Plaintiff and for any sums of money lawfully expended by the Plaintiff about the mortgaged premises), and to tax the Plaintiff's costs of this action, and that the Registrar do certify to the Court on the day of       what he shall find to be due for principal and interest as aforesaid, and for costs: And upon the Defendant paying into Court what shall be certified to be due to the Plaintiff for principal and interest as aforesaid, together with the said costs, within six months after the Registrar shall have presented his certificate, it is ordered that the Plaintiff do re-convey the said mortgaged premises, free and clear from all incumbrances made by him, or any person or persons claiming by, from, or under him, to the Defendant, or as he shall direct, and do deliver up to the Registrar, on oath if required, all deeds and writings in his custody or power relating thereto; and that upon such re-conveyance being made, and deeds and writings being delivered up, the Registrar shall pay out to the Plaintiff the said sum so paid in as aforesaid for principal, interest, and costs; but in default of the Defendant paying into Court such principal, interest, and costs as aforesaid by the time aforesaid, then it is ordered that the Defendant do thenceforth stand absolutely debarred and foreclosed of and from all right, title, interest and equity of redemption of, in, and to the said premises, and that after the expiration of the said six months the Plaintiff shall be at liberty to apply to the Court for a judgment for the foreclosure of the said mortgage [*add, if neither the value nor the rent of the property exceeds 50l. a year, and delivery of possession is asked for and ordered by the Court, and for an order directing the Defendant to deliver up possession to the Plaintiff of the hereditaments comprised in the said indenture of mortgage*]: And either of the parties is to be at liberty to apply to the Court as he may be advised.

[N.B.—*Where the state of the account is ascertained at the first hearing, instead of the order of reference to the Registrar, begin*—It is declared that the sum of £       is now due to the Plaintiff for principal and interest on the indenture of mortgage mentioned in the particulars in this action, and it is ordered that the Registrar do tax the Plaintiff's costs of this action, and that the Registrar do certify, &c.]

## 308. [265.]

## ORDER FOR SALE IN ACTION BY MORTGAGEE OR PERSON ENTITLED TO A LIEN.

[*Not to be printed.*]

It is ordered that it be referred to the Registrar to take an account of what is due to the Plaintiff for principal and interest on the mortgage [*or equitable*



mortgage *or* lien], dated the                      day of                      , mentioned in the particulars in this action, and to tax the Plaintiff's costs of this action, and that the Registrar do certify to the Court on the                      day of                      what he shall find to be due for principal and interest as aforesaid, and for costs : And upon the Defendant paying into Court what shall be certified to be due to the Plaintiff for principal and interest as aforesaid, together with the said costs, within six months after the Registrar shall have presented his certificate, it is ordered that the Plaintiff [do re-convey the said mortgaged premises, free and clear from all incumbrances made by him, or any person or persons claiming by, from, or under him, to the Defendant, or as he shall direct, and] do deliver up to the Registrar, on oath if required, all deeds and writings in his custody or power relating to the premises subject to the said mortgage [*or* equitable mortgage *or* lien] ; and that upon such [re-conveyance being made, and] deeds and writings being delivered up, the Registrar shall pay out to the Plaintiff the said sum so paid in as aforesaid, for principal, interest, and costs ; but in default of the Defendant paying into Court such principal, interest, and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [*or* the premises subject to the said equitable mortgage *or* lien] be sold with the approbation of the Judge : and it is ordered that the money to arise by such sale be paid into Court, to the end that the same may be duly applied in payment of what shall be found due to the Plaintiff for principal, interest, and costs as aforesaid, and that the balance (if any) shall be paid to the Defendant.

309. [266.]

# JUDGMENT FOR FORECLOSURE.

[*Not to be printed.*]

Whereas it appears to the Court that the Defendant has not paid into Court the sum of                      , which was on the                      day of                      certified by the Registrar to be due to the Plaintiff for principal and interest upon the indenture of mortgage dated the                      day of                      , mentioned in the particulars in this action, and for costs, pursuant to the order made in this action on the                      day of                      last, and that the period of six months has elapsed since the said                      day of                      :

It is ordered that the Defendant do stand absolutely debarred and foreclosed of and from all right, title, interest, and equity of redemption of, in, and to the said mortgaged premises [*add, if neither the value nor the rent of the property exceeds 50l. a year, and delivery of possession is asked for and ordered by the Court, and that the Defendant do deliver up possession to the Plaintiff of the hereditaments comprised in the said indenture of mortgage, the particulars of which are set forth in the schedule hereto.*]

## 310. [267.]

ORDER IN ACTION FOR FORECLOSURE OR SALE WHERE AN IMMEDIATE SALE IS DIRECTED UNDER SECTION 25 OF THE CONVEYANCING AND LAW OF PROPERTY ACT, 1881.

[*Not to be printed.*]

44 & 45 Vict.  
c. 41, s. 25.

This action coming on for trial this day, upon hearing, &c., this Court doth declare that the Plaintiff is entitled to an equitable mortgage for the sum of £      and interest at      per cent. upon the premises mentioned in the particulars; and the Plaintiff requesting that an immediate sale of the said mortgaged hereditaments may be directed, and it appearing by the evidence of      that the rents of the said mortgaged hereditaments are insufficient to keep down the interest on the said mortgage debt, and that the said hereditaments are an insufficient security for payment of the said mortgage debt and interest, and that it is therefore proper that an immediate sale of the property be ordered without giving the mortgagor the usual time to redeem, it is ordered that the said mortgaged hereditaments be sold, with the approbation of the Judge [*add directions for sale, &c.*]; and it is ordered that an account be taken of what is due to the Plaintiff for principal and interest on his said mortgage, and for his costs of this action, to be taxed by the Registrar: and it is ordered that the money to arise from the sale hereinbefore directed be applied in payment of what shall appear to be due to the Plaintiff for principal, interest, and costs as aforesaid, and be in the meantime paid into court to the credit of this action; and it is ordered that the further hearing of this action be adjourned till      ; and either of the parties is to be at liberty to apply to the Court as he may be advised.

## 311. [268.]

PARTICULARS IN FORECLOSURE ACTION WHERE THE DEBT IS UNDER 50*l.*, AND PLAINTIFF CLAIMS THAT DEFENDANT MAY BE ORDERED PERSONALLY TO PAY THE DEBT.

[*Not to be printed.*]

Order VI.,  
Rule 1.

1. By an Indenture dated the 10th day of May, 1897, made between the Defendant of the one part and the Plaintiff of the other part, the Defendant in consideration of 40*l.* advanced to him by the Plaintiff, conveyed to the Plaintiff and his heirs a house and premises situate at Hastings, in the county of Sussex, by way of mortgage to secure the repayment of the said sum of 40*l.* and interest at 5 per cent., and the Defendant covenanted with the Plaintiff to repay him the said sum of 40*l.*, together with interest as aforesaid, on the 10th day of November 1897.

2. The said sum of 40*l.*, together with an arrear of interest, amounting in the whole to 45*l.*, remains due and owing to the Plaintiff.

3. The Defendant is in occupation of the said mortgaged premises.

4. Neither the value nor the rent of the mortgaged premises exceeds 50*l.* a year.

5 The Plaintiff claims that the Defendant may be ordered personally to pay to the Registrar of this Court the said sum of 45*l.*, together with the Plaintiff's costs of this action, and that in default the Defendant may be foreclosed of his equity of redemption of the mortgaged premises [and ordered to deliver up possession thereof to the Plaintiff].

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312. [269.]

JUDGMENT IN FORECLOSURE ACTION WHERE THE DEBT IS UNDER 50*l.*,  
AND PLAINTIFF CLAIMS THAT DEFENDANT MAY BE ORDERED  
PERSONALLY TO PAY THE DEBT.

[*Not to be printed.*]

It is this day adjudged that the Plaintiff do recover against the Defendant the sum of £                      for debt and £                      for costs of this action up to and including the hearing; and it is ordered that the Defendant do pay the same to the Registrar of this Court on the                      day of                      ; and in case the Defendant do pay the same as aforesaid, it is ordered [*usual directions for re-conveyance of the mortgaged property, &c., see Form 307*]; but in default of payment it is ordered that it be referred to the Registrar to take an account of what is due to the Plaintiff for principal and interest on the mortgage of the house in the Plaintiff's particulars mentioned, and to tax the Plaintiff his costs of this action, regard being had in taking the said account to the amount (if any) which may be paid by the Defendant or recovered by the Plaintiff under the judgment herein-before contained; and it is ordered that the Registrar do certify to the Court on the                      day of                      what he shall find to be due to the Plaintiff for principal, interest, and costs; and upon the Defendant paying into Court what shall be certified, &c., &c., within six months after the Registrar shall have presented his certificate [*usual directions for re-conveyance, &c., see Form 307*]; but in default [*usual directions for foreclosure and delivery of possession, with liberty to apply, see Form 307*].

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313. [270.]

PARTICULARS IN ACTION FOR SPECIFIC PERFORMANCE.

[*Not to be printed.*]

1. By an agreement in writing the Plaintiff agreed to sell to the Defendant, and the Defendant agreed to purchase of the Plaintiff, a freehold house situate at                      , to which the Plaintiff is entitled in fee simple, for the sum of 400*l.* Order VI.  
Rule 1.

2. The said agreement is contained in two letters, dated respectively the 4th and 5th days of March 19    , the former of such letters, which was addressed to the Defendant, being signed by the Plaintiff, and the latter, which was addressed to the Plaintiff, being signed by the Defendant.

3. The Defendant has refused to perform the said agreement.

4. The purchase money does not exceed the sum of 500*l.*

5. The Plaintiff claims that the said agreement be specifically performed by the Defendant.

6. The Plaintiff has always been ready and willing, and hereby offers, specifically to perform the said agreement on his part.

7. The Plaintiff claims 50*l.* damages from the Defendant for breach of the said agreement.

*or,*

1. The Defendant by an agreement in writing dated the 7th day of March 19 , and signed by him, agreed to grant to the Plaintiff a lease of a cottage and ten acres of land, situate at , and called or known as Whitehouse, at the yearly rent of 20*l.*, for the term of seven years, commencing from the 25th day of March 19 .

2. The Defendant has refused to perform the said agreement.

3. The Plaintiff has always been ready and willing, and hereby offers, specifically to perform the said agreement on his part.

4. The Plaintiff claims to have the said agreement specifically performed, and to have a lease granted to him accordingly.

5. The value of the said cottage and land does not exceed the sum of 500*l.*

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#### 314. [271.]

#### JUDGMENT IN ACTION FOR SPECIFIC PERFORMANCE.

*[Not to be printed.]*

The Court doth adjudge that the agreement in the Plaintiff's particulars mentioned ought to be specifically performed and carried into execution, provided a good title can be made to the house therein mentioned, and doth order the same accordingly.

And it is ordered that the following inquiries be made, that is to say, (1) An inquiry whether a good title can be made to the house in the said agreement mentioned :

(2) And in case it shall appear that a good title can be made to the said house, an inquiry when it was first shown that such good title could be made.

And it is ordered that the further hearing of this action be adjourned to , and that either of the said parties be at liberty to apply to the Court as he may be advised.

#### *Further Order after Inquiry and Certificate of good Title.*

It is ordered

(1) That interest be computed at the rate of 5*l.* per cent. per annum from the day of 19 on the sum of 400*l.*, the purchase money for the house comprised in the agreement in the Plaintiff's particulars mentioned ; and

(2) That an account be taken of the rents and profits of the said house received by the Plaintiff or by any other person by his order or for his use, from the said day of 19 ; *[in case the Plaintiff*

*is in occupation of the house, then add*—and if it shall appear that the Plaintiff has occupied the said house, then it is ordered that an annual value by way of rent be set thereon, and that the Plaintiff be charged therewith in the account of rents and profits].

And it is ordered that what shall appear to be due on the said account of rents and profits be deducted from the said sum of 400*l.* and what shall appear to be due to the Plaintiff for interest thereon as aforesaid, and that the balance be certified by the Registrar.

*Add, if the Court so directs,* And it is ordered that it be referred to the Registrar to tax the Plaintiff's costs of this action.

And upon the Plaintiff executing to the Defendant at the Defendant's expense a proper conveyance of the said house (such conveyance to be settled by the Judge in case the parties differ), and delivering to the Defendant, upon oath if required, all deeds and writings in his custody or power relating to the said house, it is ordered that the Defendant pay into Court the balance payable in respect of the said purchase money and interest, together with the amount of the Plaintiff's costs when so taxed.

And either of the said parties is to be at liberty to apply to the Court as he may be advised.

*or,*

Adjudge specific performance of the agreement (*as in previous form, omitting proviso as to title*).

And it is ordered that the Defendant do execute a lease of the cottage and land comprised in the said agreement for the term therein mentioned to the Plaintiff, the said lease to contain the usual covenants [*where a question is raised as to any special covenant being inserted,* and also a covenant on the part of the Plaintiff to ], and it is ordered that such lease be settled by the Judge in case the parties differ, and it is ordered that the Plaintiff do execute to the Defendant a counterpart of the said lease.

*Directions as to costs. Liberty to either party to apply to the Court as he may be advised.*

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315. [272].

#### ORDER.—DISSOLUTION OF PARTNERSHIP.

[*Not to be printed.*]

It is declared and adjudged that the partnership mentioned in the Plaintiff's particulars between the Plaintiff and Defendant ought to stand dissolved as from the date of this judgment [*or the*                      *day of*                      *]*; and it is ordered that the dissolution thereof as from that day be advertised in the London Gazette, and in [*state name of newspaper*]:

And it is ordered that                      be the receiver of the partnership estate and effects in this action, and do get in all the outstanding book debts and claims of the partnership.

And it is ordered that the following accounts be taken :—

1. An account of the credits, property, and effects now belonging to the said partnership.

2. An account of the debts and liabilities of the said partnership.

3. An account of all dealings and transactions between the Plaintiff and Defendant from the foot of the settled account exhibited in this action and marked (A), and not disturbing any subsequent settled accounts.

And it is ordered that the goodwill of the business heretofore carried on by the Plaintiff and Defendant as in the particulars mentioned, and the property and effects belonging thereto, be sold under the direction of the Registrar, and that the Registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties are to be at liberty to bid at the sale, and that the moneys to arise from such sale be paid into Court to the credit of this action.

And it is ordered that the above accounts be taken, and all the other acts required to be done be completed, before the                      day of                      , and that the Registrar do certify the result of the accounts, and the balance (if any) due to either of the parties to this action by the partnership, for advances as distinguished from capital, and in respect of capital, and the balance (if any) due by either of the parties to the partnership, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the                      day of                      .

And lastly it is ordered that this action do stand adjourned for giving judgment to the                      day of                      , and that either of the parties is to be at liberty to apply to the Court as he may be advised.

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316. [273].

PARTNERSHIP.—JUDGMENT.

[*Not to be printed.*]

It is ordered that the fund now in Court to the credit of this action, amounting to the sum of £                      , with any interest thereon, be applied as follows :—

1. In payment of the debts due by the partnership set forth in the Registrar's certificate, amounting to £                      .

2. In payment to the Plaintiff [*or* Defendant] of the sum of £                      being the amount found by the Registrar's certificate to be due to the Plaintiff [*or* Defendant] by the partnership for advances as distinguished from capital.

And it is ordered that it be referred to the Registrar to tax the costs of the Plaintiff and the Defendant in this action.

And it is ordered that out of the balance of the said sum of £                      and interest, after payment of the said debts and of the said sum of £                      so found due to the Plaintiff [*or* Defendant], the said costs of the Plaintiff and Defendant, or any such apportionment in respect thereof as hereinafter mentioned, be paid to the Plaintiff and Defendant respectively.

And it is ordered that the residue (if any) of the said sum of £                      and interest be applied in payment to the Plaintiff and Defendant respectively, and rateably *inter se*, of the respective sums of £                      and £                      found by the Registrar's certificate to be due to the Plaintiff and Defendant respectively in respect of capital, and that the ultimate balance (if any) of the said sum and interest be apportioned between and paid to the Plaintiff and Defendant respectively in the following proportions, viz. [*according to the shares in which profits were divisible*].

But if the balance of the said sum of £                      and interest shall be insufficient to pay the said costs in full, then it is ordered that such balance be apportioned rateably between the Plaintiff and the Defendant in proportion to the amounts of their said costs when taxed, and that the amounts so apportioned be certified and paid to the Plaintiff and Defendant respectively.

And either of the parties is to be at liberty to apply to the Court as he may be advised.

*[If any sum be found due from either partner to the partnership in respect of capital withdrawn or otherwise, order payment of that sum by him into Court. If the sum in Court is insufficient to pay the balance found due to the Plaintiff or Defendant, as the case may be, order the other party to pay to the party to whom such balance is found due a proportionate part of the deficiency, and insert directions as to costs, in accordance with the rules in force in the Chancery Division of the High Court—Hamer v. Giles, 11 Ch. D. 942 ; Potter v. Jackson, 13 Ch. D. 845 ; Ross v. White, 1894, 3 Ch. 326.]*

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### 317. [274.]

#### NOTICE OF JUDGMENT OR ORDER TO PARTY DIRECTED TO BE SERVED WITH NOTICE THEREOF.

Take notice, that on the                      day of                      the judgment                      Order III.,  
[or order] of which a copy is hereunto annexed was made in this action [or Rules 27, 28.  
matter], and that from the time of the service of this notice on you you will be  
bound by the proceedings in this action [or matter] in the same manner as if  
you had been originally made a party to it, and that you may attend the  
proceedings under the said judgment [or order], and that you may apply to the  
Court to discharge, vary, or add to the said judgment [or order].

Dated this                      day of                      19                      .

Registrar.

To

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### 318. [275.]

#### SUMMONS TO PARTIES TO ATTEND UPON TAKING ACCOUNTS.

Let all parties concerned attend me at my office at                      on Order XXIV.,  
the                      day of                      19                      , at                      o'clock in the                      Rule 2.  
noon, to proceed with the accounts and inquiries directed by the judgment [or  
order] herein, dated the                      day of                      19                      .

Dated this                      day of                      19                      .

Registrar.

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## 319. [276.]

## NOTICE TO CREDITOR TO PROVE HIS CLAIM.

Order XXIV.,  
Rules 18, 19.

You are hereby required to prove the claim sent in by you against the estate of *A.B.*, deceased, by filing such affidavit as you may be advised in support thereof, and by giving notice thereof to me, on or before the day of \_\_\_\_\_ next, and by attending at my office at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, being the time appointed for adjudicating on the claim.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Registrar.

To \_\_\_\_\_

## 320. [277.]

## NOTICE TO CREDITOR OF ALLOWANCE OF CLAIM.

Order XXIV.,  
Rule 19.

The claim sent in by you against the estate of *A.B.*, deceased, has been allowed at the sum of \_\_\_\_\_, with interest thereon at \_\_\_\_\_ per cent. per annum, from the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, and for costs.

*[If part only allowed, add—*If you claim to have a larger sum allowed, you are hereby required to prove such further claim, by filing such affidavit as you may be advised in support thereof, and by giving notice thereof to me on or before the \_\_\_\_\_ day of \_\_\_\_\_ next, and by attending at my office at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.]

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Registrar.

## 321. [278.]

## REGISTRAR'S CERTIFICATE.

*[Not to be printed.]*

Order XXIV.,  
Rule 27.

In obedience to the order of this Court made in the above action [*or matter*], I hereby certify that the result of the accounts and inquiries [*or of the sale and apportionment*] which have been taken and made in pursuance of the judgment [*or order*] given [*or made*] in this action [*or matter*] dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, is as follows:—

The Plaintiffs and Defendants have attended by themselves or by their respective solicitors.

*Notice of Order.*

Notice of the said judgment [*or order*] of the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ has been served upon \_\_\_\_\_.



The persons so served include all the \_\_\_\_\_ now living, and the personal representatives of such of them as are dead, except such as are parties to this action [*or* matter], and except \_\_\_\_\_ herein-after named.

Service of notice of the said judgment [*or* order] upon the said \_\_\_\_\_ was dispensed with.

*Personal Estate Account.*

The Defendants \_\_\_\_\_ the executors [*or* administrators] of the testator [*or* intestate] named in the said judgment [*or* order] have received personal estate to the amount of £ \_\_\_\_\_, and they have paid or are entitled to be allowed on account thereof sums to the amount of £ \_\_\_\_\_, leaving a balance due from [*or* to] them of £ \_\_\_\_\_ on that account.

*References to Account.*

The particulars of the above receipts and payments appear in the account marked A. verified by the affidavit of the said Defendant \_\_\_\_\_ filed the \_\_\_\_\_ day of \_\_\_\_\_, and the account marked B. verified by the affidavit of \_\_\_\_\_ filed the \_\_\_\_\_ day of \_\_\_\_\_, and which accounts are to be filed with this certificate.

*Variations from Accounts.*

Except that in addition to the sums appearing in such account to have been received the said Defendants [*or* Plaintiff] are [*or* is] charged with the following sums; (that is to say,) £ \_\_\_\_\_, and except that of the items of disbursement in the said account I have disallowed those numbered \_\_\_\_\_, and I have deducted from the item numbered \_\_\_\_\_ the sum of £ \_\_\_\_\_ and from the item numbered \_\_\_\_\_ the sum of £ \_\_\_\_\_, and in addition to the disbursements appearing in such account the said Defendants [*or* Plaintiff] have [*or* has] paid and been allowed the sum of £ \_\_\_\_\_.

*Special Allowances in Accounts.*

The payments allowed to the said Defendants [*or* Plaintiff] in the said account include the sum of £ \_\_\_\_\_ paid into Court to the credit of this action, on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

*Reference to Transcript of Account.*

The before-mentioned account marked A. has been altered, and the account marked A. B., and which is also to be filed with this certificate, is a transcript of the said account marked A. as altered and passed.

*No Personal Estate received.*

The Defendants \_\_\_\_\_ the executors [*or* administrators] of the testator [*or* intestate] named in the said judgment [*or* order] have not, nor hath any or either of them, or any person by their or any or either of their order, or for their or any or either of their use, received any part of the personal estate of the said testator [*or* intestate].

*Funeral Expenses.*

The funeral expenses of the testator [*or* intestate], amounting to the sum of £ , have been paid and are allowed the Defendant [*or* Plaintiff ] the executor [*or* administrator] of the said testator [*or* intestate] in the said account of personal estate.

*Debts.*

The debts of the testator [*or* intestate], including the Plaintiff's, which have been allowed are set forth in the Schedule hereto, and, with the interest thereon, and costs mentioned in the said Schedule, are due to the Plaintiff and the other persons named therein, and amount altogether to . No other person has been allowed or come in and proved any debt against the estate of the said testator [*or* intestate], and the time fixed by advertisement for that purpose has expired.

Such of the said debts as are specialty are set forth in the first part of the said Schedule, and amount to £ ; such as are simple contract are set forth in the second part of said Schedule, and amount to £ .

*Interest on Debts.*

The interest on such debts is computed down to the date of this certificate, at and after the rate of 4*l.* per centum per annum, from the day of 19 , the date of the said judgment [*or* order], unless otherwise specified in the said Schedule.

*Legacies and Annuities.*

The legacies given by the testator, other than annuities, are set forth in the first part of the Schedule hereto, and, with the interest therein mentioned, remain due to the persons therein named, and amount altogether to £ .

The annuities given by the testator, with the arrears due thereon, are set forth in the second part of the said Schedule. Such arrears amount to £ .

*Interest on Legacies.*

The interest on such legacies is computed down to the date of this certificate, at and after the rate of 4*l.* per centum per annum, from the day of 19 , the end of one year after the testator's death, unless otherwise specified in the said Schedule.

The arrears of the annuities are computed to the date of this certificate, and from the testator's death, unless otherwise specified in the said Schedule.

*Outstanding Estate.*

The personal estate of the said testator [*or* intestate] [not specifically bequeathed] outstanding or undisposed of consists of the particulars set forth in the Schedule hereto.

*Real Estate.*

The real estate which the said testator [*or* intestate] was seised of or entitled to consists of the particulars set forth in the Schedule hereto.

*Incumbrances on Real Estate.*

The incumbrances affecting the said testator's [*or intestate's*] real estate are specified in the \_\_\_\_\_ Schedule hereto.

*Rents and Profits Account.*

The Defendants [*or Plaintiff* \_\_\_\_\_], the trustees named in the said judgment [*or order*], have received rents and profits of the testator's real estate \_\_\_\_\_ to the amount of £ \_\_\_\_\_, and they have paid or are entitled to be allowed on account thereof sums to the amount of £ \_\_\_\_\_, leaving a balance due from [*or to*] them of £ \_\_\_\_\_ on that account.

*No Rents and Profits received.*

The Defendants [*or Plaintiff* \_\_\_\_\_], the trustees named in the said judgment [*or order*], have not, nor hath any or either of them, or any person by their or any or either of their order, or for their or any or either of their use, received any sum of money on account of the rents and profits of the testator's [*or intestate's*] real estate.

*Sale of Real Estate.*

The real estates of the testator [*or intestate*] directed to be sold have been sold, and the purchase moneys, amounting altogether to £ \_\_\_\_\_, have been paid into Court.

*Next of Kin.*

The next of kin, according to the statutes for the distribution of the effects of intestates, of \_\_\_\_\_, the intestate named in the said judgment [*or order*], \_\_\_\_\_ living at the time of his death were \_\_\_\_\_, of whom the said \_\_\_\_\_ have since died.

The legal personal representative of the said \_\_\_\_\_ is \_\_\_\_\_.

The legal personal representative of the said \_\_\_\_\_ is \_\_\_\_\_.

The legal personal representative of the said \_\_\_\_\_ is \_\_\_\_\_.

[*If there is no legal personal representative, this fact must be stated.*]

Dated \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Registrar.

N.B.—*The paragraphs are to be numbered with numbers corresponding to those in the judgment or order. After each statement the evidence produced is to be stated as follows:—*

The evidence produced on this account [*or inquiry*] consists of the probate of the testator's will, the affidavit of \_\_\_\_\_ filed the \_\_\_\_\_ day of \_\_\_\_\_, and paragraph \_\_\_\_\_ of the affidavit of \_\_\_\_\_ filed the \_\_\_\_\_ day of \_\_\_\_\_.

322. [280.]

## NOTICE THAT REGISTRAR'S CERTIFICATE MAY BE INSPECTED.

Take notice, that the certificate of the result of the inquiries made and accounts taken by me under the judgment [*or order*] of this Court made on the \_\_\_\_\_ day of \_\_\_\_\_ in this action [*or matter*] lies in my office, and can be inspected by you up to and inclusive of the \_\_\_\_\_ day of \_\_\_\_\_ [*here insert the day before that on which the action or matter is to be further heard*].

To \_\_\_\_\_

Registrar.

## 323. [279.]

## ADMINISTRATION ACTION.—ORDER ON FURTHER CONSIDERATION.

[*Not to be printed.*]Order XXIV.,  
Rules 33, 34.

This action coming on this day to be heard on further consideration, now upon reading the judgment [*or order*] of this Court given [*or made*] on the day of 19 [*original order for accounts and inquiries*], and the certificate of the Registrar, dated the day of 19, made in pursuance of the said judgment [*or order*], and the orders of this Court dated the day of 19, and the day of 19; and upon hearing the solicitors for [*names of parties appearing*] [no one appearing for , though served with notice of the said judgment [*or order*]:

It is ordered that the costs of all parties of this action be taxed, including in the costs of the Defendant *G.H.* any costs, charges, and expenses properly incurred by him as executor and trustee of the will of the testator, not being costs of action.

If balance in  
hands of *G.H.*  
not paid into  
Court.

And it is ordered that the Defendant *G.H.* be at liberty, out of the sum of £ by the said certificate found due from him on account of the personal estate of the testator, to retain the amount of his said costs when taxed.

And it is ordered that the said Defendant *G.H.* do pay the balance of the said sum of £ found due from him as aforesaid remaining after such retainer as aforesaid into Court to the credit of this action, the account of the testator's personal estate.

And it is ordered that the costs of all other parties when taxed be paid out of any moneys in Court to the credit of this action, the account of the testator's personal estate.

And it is ordered that out of any moneys standing to the last-mentioned account remaining after providing for the said costs, the debts of the testator included in the schedule to the Registrar's certificate, with interest at 4 per cent. from the foot of the Registrar's certificate, the amount to be verified [*state mode of verification*], be paid to the creditors to whom such debts are certified to be due, and that out of any moneys to the credit of the last-mentioned account, after providing for payment of the costs and the debts as aforesaid, the two legacies by his said certificate found due be paid, together with interest at 4 per cent. from the foot of the certificate [*state mode of verification*] to the said legatees respectively.

And the Court doth declare that according to the true construction of the testator's will the ultimate balance of the testator's personal estate, and the proceeds of the sale of the testator's real estate, are divisible as follows:—

[*Order for distribution amongst parties entitled, and payment, the shares of infants being carried over to accounts intituled according to circumstances.*]

And it is ordered that any of the parties are to be at liberty to apply to the Court as they may be advised.

Dated this day of 19 .

324. [281.]

PARTICULARS IN ACTION FOR PARTITION, OR FOR SALE AND  
DISTRIBUTION OF PROCEEDS.

[*Not to be printed.*]

The Partition Acts, 1868 and 1876.

1. By will dated 1st January 1889 *D.* devised all his real estate to *E.* his wife for life, with remainder to such of his children as should survive him as tenants in common in fee. 31 & 32 Vict.  
c. 40.  
39 & 40 Vict.  
c. 17.  
Order VI.  
Rule 1.

2. *D.* died on the 2nd January 1891, and his will was proved on the 3rd March 1891.

3. *D.* left the said *E.* his widow and three children only, viz., the Plaintiff *A.*, the Defendant *B.*, and a daughter *C.*, him surviving.

4. The said *E.*, the widow of the testator, and the tenant for life of the real estate of the testator under his said will, died on the 4th day of April 19 .

5. The said *C.* married *F.*, and went with her said husband to reside in the United States, and she died there, leaving her husband and three children her surviving. It is not known in whom the one-third part or share of the real estate of the testator by his will devised to the said *C.* is now vested.

6. The real estate of the said testator consists of two houses situate at . . . . The value of the said two houses does not exceed 500*l.*

7. A sale of the said two houses and a distribution of the proceeds will be more beneficial than a division of the property.

The Plaintiff claims a sale of the said two houses and a distribution of the proceeds amongst the parties interested.

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325. [71.]

REQUEST FOR SALE UNDER PARTITION ACT, 1868.

[*Not to be printed.*]

We, the undersigned, being all the persons interested or claiming to be interested in the hereditaments mentioned in the particulars filed in this action, hereby request that the said hereditaments may be sold and the proceeds thereof distributed, instead of being divided between or amongst the persons interested. 31 & 32 Vict.  
c. 40. s. 4.  
Order IX.,  
Rule 10.

## 326. [282.]

PRELIMINARY INQUIRY DIRECTED IN ACTION FOR PARTITION, FOR THE  
PURPOSE OF ASCERTAINING WHO ARE THE PERSONS INTERESTED IN  
THE PROPERTY.

[*Not to be printed.*]

The Partition Acts, 1868 and 1876.

31 & 32 Vict.  
c. 40.  
39 & 40 Vict.  
c. 17. It is ordered that an inquiry be made who are the persons interested in the hereditaments in the particulars in this action mentioned, and in what shares and proportions, and for what estates and interests, and whether they are parties to this action, and whether it will be more beneficial to the parties interested in the said hereditaments that the same should be sold and the proceeds of sale distributed among them, or that a division of the said hereditaments should be made. And it is ordered that the further hearing of this action be adjourned, and any of the parties are to be at liberty to apply to the Court as they may be advised.

## 327. [283.]

ORDER DISPENSING WITH SERVICE OF NOTICE OF JUDGMENT ON PERSONS  
INTERESTED.

[*Not to be printed.*]

The Partition Acts, 1868 and 1876.

31 & 32 Vict.  
c. 40.  
39 & 40 Vict.  
c. 17. It appearing that notice of the judgment [*or order*] given [*or made*] on the hearing of this action cannot be served on all the persons on whom that notice is by the Partition Act, 1868, required to be served [*or cannot be served on all the persons on whom that notice is by the Partition Act, 1868, required to be served without expense disproportionate to the value of the property to which the action relates*], it is, on the request of parties interested in the said property, ordered that service on [*name persons*] be dispensed with, and instead thereof it is ordered that advertisement be published in [*state particulars of advertisements, names of newspapers, &c., &c., and times when to be published*] calling upon all persons claiming to be interested in the property to which this action relates who have not been so served to come in and establish their claims in respect thereof before the Court within from the publication of the said advertisement.

## 328. [284.]

JUDGMENT FOR PARTITION WITHOUT REFERENCE.

[*Not to be printed.*]

The Partition Acts, 1868 and 1876.

31 & 32 Vict.  
c. 40.  
39 & 40 Vict.  
c. 17. Declare that the Plaintiff is entitled to one equal moiety of the two freehold houses mentioned in the Plaintiff's particulars of claim, and that the infant Defendant is entitled to the remaining moiety: And it appearing that the said two houses are of equal value, declare that it will be for the benefit of the infant Defendant that the said two houses be partitioned, divided, and

allotted in manner following; that is to say, that the house being No. 1 . . . be allotted to the Plaintiff, and the house being No. . . . be allotted to the infant Defendant, and it is ordered that the said two houses be partitioned, divided, and allotted accordingly. And it is ordered that the Plaintiff and the said infant Defendant shall hold and enjoy their said moieties in severalty according to such allotment. And it is declared that the said infant Defendant is a trustee within the meaning of the Trustee Acts. And it is ordered that the Plaintiff and of , the guardian of the infant Defendant on behalf of the said infant, do execute mutual conveyances, to be settled by the Court in case the parties differ. And it is ordered that all such deeds and writings or other evidence of title relating to the said houses in the custody or power of any of the parties as exclusively relate to the house allotted to the Plaintiff be delivered to him, and that all such deeds and writings or other evidence of title relating to the said houses in the custody or power of any of the parties as exclusively relate to the house allotted to the infant Defendant be delivered to the guardian of the infant Defendant to hold for and on behalf of the infant.

*Add special directions as to deeds and writings relating to both houses.*

*Liberty to apply, &c.*

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329. [285.]

ORDER FOR SALE UNDER SECTION 3 OF THE PARTITION ACT, 1868.

[*Not to be printed.*]

The Plaintiff by his solicitor requesting a sale of the hereditaments in his particulars of claim in this action mentioned, and it appearing to the Judge that by reason of the nature of the property [*or* of the number of the parties interested or presumptively interested therein] a sale of the property and a distribution of the proceeds will be more beneficial to the parties interested than a division of the property between or among them, it is ordered that an inquiry be made by the Registrar who are the persons interested in the said hereditaments, and in what shares and proportions, and for what estates and interests, and whether they are parties to this action. And if it shall be certified that all the parties interested are parties to this action, and that the Plaintiff is one of the said parties, it is ordered that the said hereditaments be sold with the approbation of the Judge, and that the money to arise from such sale be paid into Court to the credit of this action; but if it shall be certified that all the parties interested are not parties to this action, it is ordered that any of the parties interested are to be at liberty to apply to the Judge for an order for sale when it shall have been certified that all persons who are not parties and who ought to be served with notice of this judgment [*or* order] have been so served, or that service of such notice has been dispensed with; and any party to this action is to be at liberty to apply for an order dispensing with such service on any person who cannot be discovered, or who cannot be served without expense disproportionate to the value of the said hereditaments. And it is ordered that the further consideration of this action be adjourned, and any of the parties are to be at liberty to apply to the Court as they may be advised.

31 & 32 Vict.  
c. 40. s. 3.  
State grounds  
on which  
Court pro-  
ceeds under  
section 3.

## 330. [286.]

## ORDER FOR SALE UNDER SECTION 4 OF THE PARTITION ACT, 1868.

[*Not to be printed.*]31 & 32 Vict.  
c. 40, s. 4.

The Plaintiffs, who claim to be interested in a moiety or upwards of the hereditaments in the particulars of claim in this action mentioned, by their solicitor requesting a sale of the said hereditaments and a distribution of the proceeds instead of a division of the same between or amongst the persons interested, it is ordered that an inquiry be made who are the persons interested in the said hereditaments, and in what shares and proportions, and for what estates and interests, and whether they are parties to this action ; and if it shall be certified that all the persons interested are parties to this action. and that the Plaintiffs are interested to the extent of one moiety or upwards in the said hereditaments and request a sale thereof, it is ordered that the said hereditaments be sold with the approbation of the Judge, and that the money to arise from such sale be paid into Court to the credit of this action ; but if it shall be certified that all the persons interested are not parties to this action, it is ordered that any of the parties interested are to be at liberty to apply to the Judge for an order for sale when it shall have been certified that all persons who are not parties and who ought to be served with notice of this judgment [*or order*] have been so served, or that service of such notice has been dispensed with, and that the parties or party interested collectively or individually to the extent of one moiety or upwards in the said hereditaments request a sale ; and any party to this action is to be at liberty to apply for an order dispensing with service of notice of this judgment [*or order*] on any person who cannot be discovered, or who cannot be served without expense disproportionate to the value of the said hereditaments. And it is ordered that the further consideration of this action be adjourned, and any of the parties are to be at liberty to apply to the Court as they may be advised.

## 331. [289].

## ORDER FOR TRANSFER OF ACTION OR MATTER TO HIGH COURT.

[*Not to be printed.*]Order  
XXXIII.,  
Rules 5, 6.

Whereas it appears that the subject matter of this action [*or matter*] exceeds in amount the sum of 500*l.* : It is ordered that this action [*or matter*] be transferred to the High Court of Justice, together with the annexed certificate of the Registrar of this Court, showing the state of the action [*or matter*] and the proceedings that have been had therein in this Court.

Dated this                      day of                      19 .

By the Court,

Registrar.



## 332. [New.]

## CONSENT TO ACT AS TRUSTEE.

[Not to be printed.]

I, *A.B.*, of hereby consent to as a Trustee Order XIX.,  
of the (*here describe the instrument*). Rule 13.

(Signed) *A.B.*

I, *C.D.*, of solicitor, hereby certify that the  
above written signature is the signature of *A.B.*, the person  
mentioned in the above written consent.

Dated this day of 19 .

*C.B.*,Solicitor for the said *A.B.*

## 333. [300.]

## AFFIDAVIT UNDER SECTION 70 OF THE COUNTY COURTS ACT, 1888.

[Not to be printed.]

51 & 52 Vict.  
c. 43, s. 70.  
Order  
XXXVIII.,  
Rules 9, 10.

In the County Court of holden at .

In the matter of The County Courts Act, 1888, and

In the matter of [*add the title of the particular trust, as the trusts of a certain*  
*indenture of mortgage, dated the day of , and made*  
*between A.B. and C.D.*]

I, *C.D.*, of [*address and description*], make oath and say as follows :—

1. *State place for service, as—*My house being is the place  
where I am to be served with any notice or application relating to the trust  
fund herein-after mentioned.

2. *State the amount of money or stock proposed to be paid or transferred,*  
*or security deposited in trust to attend the orders of the Court, as—*Under the  
provisions of the above-mentioned Act, I desire to pay into the Post Office  
Savings Bank the sum of herein-after mentioned.

3. *Set out a short description of the trust and of the instrument creating it,*  
*as* By the indenture before-mentioned a certain messuage situate at ,  
with the appurtenances, was mortgaged by the said *A.B.* to me, my heirs and  
assigns, for securing to me the repayment on the day of  
19 , of the sum of £ , with interest for the same at the rate  
of £ per cent. per annum, and the said indenture contained a  
power of sale in case of default in payment, and it was by the said indenture  
declared that the moneys to arise from any such sale should, after retaining  
thereout the expenses of executing the said power, and the said principal money  
and interest, be paid to the said *A.B.*, his heirs or assigns.

The said *A.B.* died on or about the day of ,  
and by his will, dated the day of , appointed

\* Here insert present address and description. If the address of any person interested be unknown to the trustee, this fact must be set forth in the affidavit.

*E.F.* of\*, executor thereof, and devised the said hereditaments, subject to the said mortgage, unto *G.H.* of\* and *J.K.* of\* in trust for the said *E.F.*, for his life, and after his death upon certain trusts for sale, and for the division of the proceeds amongst the following persons, namely, the testator's son *M.N.*, of\* and his children or child, and the testator's daughter *O.*, the wife of *P.Q.* of\*, and her children or child.

The said *E.F.* proved the said will in [*state in what Court*], and is still living.

The said *G.H.* never acted in the trusts of the said will, &c.

On or about the \_\_\_\_\_ day of \_\_\_\_\_, I sold the said hereditaments by public auction to *X.Y.*, of [*address and description*], at the price of £ \_\_\_\_\_.

After retaining out of the said £ \_\_\_\_\_ the costs of sale, and the sum of \_\_\_\_\_, being the total amount of principal moneys and interest due upon the said mortgage, and the sum of £ \_\_\_\_\_, being the costs of paying the above-mentioned fund into Court, a balance of £ \_\_\_\_\_ now remains in my hands, and the sum of £ \_\_\_\_\_, which I desire to pay into the Post Office Savings Bank, in trust to attend the orders of this Court, is the said balance of £ \_\_\_\_\_.

4. *State the names of the persons interested in, or entitled to, the fund, to the best of the trustee's knowledge or belief, as—*

To the best of my knowledge and belief, the said *G.H.* and *J.K.*, as such trustees as aforesaid, and the said *E.F.*, *M.N.*, and his children or child [*stating, if known, their names*], and *O.P.* and her children or child [*stating, if known, their names*], are the only persons interested in the said fund.

5. *Add submission to answer inquiries, as—*

I submit to answer all such inquiries relating to the application of the said fund of £ \_\_\_\_\_ as the Court may think proper to make or direct.

Sworn at, &c.

### 334. [304.]

#### CERTIFICATE IN CASE OF MONEY.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_.

In the matter of the County Courts Act, 1888; and

In the matter of the trusts of (*as the case may be*).

I hereby certify that [*state name, address, and description of party making the application*] has this day filed with me, the Registrar of this Court, an affidavit intituled as above mentioned, with reference to a trust fund or sum of \_\_\_\_\_ therein mentioned, which sum, as therein stated, he desires to pay into my name as such Registrar as aforesaid into a Post Office Savings Bank, as provided by the above Act.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Registrar.

335. [305].

**CERTIFICATE IN CASE OF TRANSFER OF STOCK.**

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

In the matter of the County Courts Act, 1888 ; and

In the matter of the trusts of (*as the case may be*).

I hereby certify that [*state name, address, and description of party making application*] has this day filed with me, the Registrar of this Court, an affidavit intituled as above mentioned, with reference to a trust fund of £                      Bank £2 15s. per cent. Consolidated Annuities in the books of the Governor and Company of the Bank of England, which, as therein stated, he desires to transfer into the names of the Treasurer [*or Superintendent of the County Court Department of the Treasury*] and of the Registrar of this Court, as provided by the above Act.

Dated this                      day of                      19   .

Registrar.

51 & 52 Vict.  
c. 43. s. 70.  
Order  
XXXVIII.,  
Rules 15, 17.

336. [306].

ACKNOWLEDGMENT OF FILING OF RECEIPT OR TRANSFER TICKET.

In the County Court of                      holden at

In the matter of the County Courts Act, 1888 ; and

In the matter of the trusts of (as the case may be).

I hereby acknowledge that [state the name, address, and description of the party giving to the Registrar the receipt of the Post Office Savings Bank in the case of money, or the transfer ticket in the case of stock] has this day delivered to me, the Registrar of this Court, a receipt dated the                      day of                      19                      , and signed by [name of officer of the Post Office Savings Bank], for the sum of £                      , stating that [state receipt] [or a transfer ticket of the Governor and Company of the Bank of England], stating that [state as in ticket].

Dated this                      day of                      19   .

Registrar.

51 & 52 Vict.  
c. 43. s. 70.  
Order  
**XXXVIII.**  
Rule 21.

337. [307.]

CERTIFICATE OF DEPOSIT OF SECURITY.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

In the matter of the County Courts Act, 1888 ; and

In the matter of the trusts of the will of A.B., deceased, so far as regards one moiety of his residuary estate bequeathed to C.D. and her children.

51 & 52 Vict.  
c. 43. s. 70.  
Order  
**XXXVIII.**  
Rule 21.

I hereby certify that [*state the name, address, and description of the party depositing with the Registrar the security*] has this day deposited with me, the Registrar of this Court, in the name of myself and the Treasurer [*or Superintendent of the County Court Department of the Treasury*] [*here state the nature of the security deposited*].

Dated this                      day of                      19 .

Registrar.

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338. [309.]

NOTICE TO TREASURER.

51 & 52 Vict.  
c. 43. s. 70.  
Order  
XXXVIII.,  
Rule 19.

In the County Court of                      holden at                      .

In the matter of the County Courts Act, 1888 ; and

In the matter of the trusts of the will of *A.B.*, deceased, so far as regards one moiety of his residuary estate bequeathed to *C.D.* and her children.

Take notice, that on the                      day of                      [*state name, address, and description of party who has deposited the security*] under the said Act deposited with the Registrar of this Court, in the names of yourself and myself, in trust to attend the orders of this Court [*here describe security*].

Dated this                      day of                      19 .

Registrar.

To *E.F.*, Treasurer,  
[*or as the case may be*].

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339. [308.]

NOTICE OF PAYMENT INTO POST OFFICE SAVINGS BANK, OR OF TRANSFER OF STOCK OR DEPOSIT OF SECURITY.

51 & 52 Vict.  
c. 43. s. 70.  
Order  
XXXVIII.,  
Rule 22.

In the County Court of                      holden at                      .

In the matter of the County Courts Act, 1888 ; and

In the matter of the trusts of the will of *A.B.*, deceased, so far as regards one moiety of his residuary estate bequeathed to *C.D.* and her children.

Take notice, that on the                      day of                      [*state name, address, and description of party who has paid in the money*] under the above-mentioned Act paid into the Post Office Savings Bank at                      in the name of me, the Registrar of this Court, the sum of £                      in trust to attend the orders of this Court [*or transferred into the names of*                      of                      and of me, the Registrar of this Court, in the books of the Governor and Company of the Bank of England, the sum of £                      Bank £2 15s. per cent. Consolidated Annuities, in trust to attend the orders of this Court, *or* deposited with me in the names of                      of                      and of me, the Registrar of this

Court, in trust to attend the orders of this Court [*here describe security*], and in his affidavit filed in this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, shortly described the instrument creating the trust, and stated the names of the persons interested in or entitled to the said fund [*or security*], to the best of his knowledge and belief, as follows : that is to say [*state from the affidavit the paragraph containing the names of the persons interested or entitled*].

And further take notice, that any person interested in or entitled to the said fund [*or security*] may apply to this Court respecting the investment, payment out, or distribution of the said fund [*or security*], or of the income thereof, according to the practice of the Court.

Dated this                      day                      19                      .

Registrar.

340. [301.]

### PETITION.

[Not to be printed.]

51 & 52 Vict.  
c. 43. s. 70.  
Order  
**XXXVIII.**  
Rule 23.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

In the matter of the County Court Acts, 1888 ; and

In the matter of the trusts of the will of *A.B.*, deceased, so far as regards one moiety of his residuary estate bequeathed to *C.D.* and her children.

To His Honour the Judge of the said Court.

The petition of *E.F.*, of

Sheweth—

1. That *G.H.*, of \_\_\_\_\_, under the provisions of the above-mentioned Act, on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, paid into the Post Office Savings Bank situate at \_\_\_\_\_ in the name of the Registrar of this Court, in trust to attend the orders of this Court, the sum of £ \_\_\_\_\_.

2. On the occasion of his making the said payment the said *G.H.* made an affidavit, intituled as aforesaid, and sworn the \_\_\_\_\_ day of 19\_\_\_\_, pursuant to the rules and orders of the Court. Your petitioner to save expense has not set forth the contents of the said affidavit, but your petitioner craves leave to refer thereto.

3. In addition to the matters stated in the said affidavit, your petitioner sheweth that [state any material facts not set forth in the affidavit, or which it is necessary to state in correction or qualification of the statements in the affidavit].

4. Your petitioner is the same person as *C.D.* in the \_\_\_\_\_ paragraph of the said affidavit named as one of the persons interested in the said trust fund.

5. Your petitioner, under the trusts of the said will of the said A.B., is entitled to the income of the said trust fund during her life.

Your petitioner prays that the dividends and income to accrue due on the said trust fund during the life of your petitioner may be ordered to be paid to her during her life or until further order.

*Note.*—It is not intended to serve this petition on the persons interested in the capital of the said trust fund.

or, where petition is by remainder man after death of tenant for life,

1. That *G.H.*, of \_\_\_\_\_, under the provisions of the above-mentioned Act, on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, paid into the Post Office Savings Bank situate at \_\_\_\_\_ in the name of the Registrar of this Court, in trust to attend the orders of the Court, the sum of £ \_\_\_\_\_.

2. On the occasion of his making the said payment the said *G.H.* made an affidavit, intituled as aforesaid, and sworn the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, pursuant to the rules and orders of the Court. Your petitioner to save expense has not set forth the contents of the said affidavit, but your petitioner craves leave to refer thereto.

*If named in  
the affidavit.*

3. Your petitioner is the same person as \_\_\_\_\_ in the \_\_\_\_\_ paragraph of the said affidavit named as one of the persons interested in the said trust fund,

or,

*If not named  
in the  
affidavit.*

Your petitioner is one of the children of *C.D.* in the \_\_\_\_\_ paragraph of the said affidavit mentioned as being interested in the said trust fund.

4. By an order of the Court made in the above matters on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, upon the petition of the said *C.D.*, it was, amongst other things, ordered that the dividends and income thereafter to accrue due during the life of the said *C.D.*, in respect of the said sum of £ \_\_\_\_\_ should be paid to the said *C.D.* during her life or until further order.

5. The said *C.D.* died on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, having duly received all the dividends and income payable to her under the said order, but an apportioned part of the interest accrued on the said sum of £ \_\_\_\_\_ since the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, will be payable to the representative of the said *C.D.*

6. There were four children of the said *C.D.* entitled, subject to her life interest, to the said trust fund, viz [*state persons interested in principal moneys*], and your petitioner, as one of such children, is entitled to one-fourth share of the said trust fund and the interest accrued in respect thereof since the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, other than the apportioned part payable to the representative of the said *C.D.*, deceased.

[*Add statement as to whether any duty payable to the Revenue has or has not been paid.*]

Your petitioner prays that the costs of your petitioner and of all other parties to this application may be taxed as between solicitor and client and paid out of the said trust fund, and that the residue of the said trust fund and the interest accrued due thereon, other than the apportioned part of such interest payable to the representative of the said *C.D.*, deceased, may [*add, if so, after payment of any duties payable to the Revenue*] be divided into \_\_\_\_\_ equal parts, and that one of such parts may be paid to your petitioner.

*Note.*—It is proposed to serve this petition on the said *G.H.*, and on [*other persons interested in the trust fund*].

## 341. [303.]

## NOTICE OF DAY UPON WHICH PETITION WILL BE HEARD.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

Order  
XXXVII  
Rule 3.

In the matter of the County Courts Act, 1888 ; and

In the matter of the trusts of [*as the case may be*].

Take notice, that the petition, a sealed copy of which is served herewith, will be heard at a County Court to be holden at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, and that if you do not attend either in person or by your solicitor at the time and place above mentioned, such order will be made and proceedings taken as the Judge may think just.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Registrar.

To \_\_\_\_\_

## 342. [302.]

## ORDER ON PETITION.

[*Not to be printed.*]

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

51 & 52 Vict.  
c. 43, s. 70.  
Order  
XXXVIII.,  
Rules 8, 27.

In the matter of the County Courts Act, 1888 ; and

In the matter of the trusts of the will of *A.B.*, deceased, so far as regards one moiety of his residuary estate bequeathed to *C.D.* and her children.

Upon the petition of *E.F.*, of \_\_\_\_\_ and upon reading the affidavit of *G.H.* [*trustee or other person paying money into Court*], and the several affidavits of \_\_\_\_\_ filed in the above matters and sworn respectively on the \_\_\_\_\_ day of \_\_\_\_\_ and \_\_\_\_\_ day of \_\_\_\_\_ [and the order of this Court dated \_\_\_\_\_], and upon hearing the solicitor for the Petitioner and the solicitor for *I.K.*, *L.M.*, *N.O.*, infants under the age of 21 years, appearing as Respondents to the said petition by their guardian *ad litem* ;

Any previous  
order on  
the above  
matters.

And it appearing that according to the true construction of the will of the said *A.B.*, and in the events that have happened, the moiety of the residuary estate of the said testator bequeathed to *C.D.* and her children has become vested in the petitioner, and in the said *I.K.*, *L.M.*, and *N.O.*, in equal shares as tenants in common :

It is ordered that the costs of all parties appearing on the said petition be taxed, and that the said costs when taxed be paid out of the sum of £ \_\_\_\_\_ standing in the name of the Registrar of this Court in the Post Office Savings Bank at \_\_\_\_\_, to the credit of the above matters ;

And it is ordered that out of the accrued interest on the said sum of £ \_\_\_\_\_ the sum of £ \_\_\_\_\_, being the apportioned part of the said interest from the \_\_\_\_\_ day of \_\_\_\_\_ to the \_\_\_\_\_ day of \_\_\_\_\_, the day of the death of the said *C.D.*, be paid to the representative of the

said *C.D.*, and that the residue of such accrued interest and the residue of the said sum of £                      remaining after payment of the said costs be [*if so*, after payment of the duties payable to the Revenue in respect of the said sum] divided by the Registrar into four equal parts, and that one of such fourth parts be paid to the petitioner, and that the Registrar do carry over one other of such fourth parts to the separate account of *I.K.*, an infant, his share of the moiety of the residuary estate of *A.B.*, deceased, bequeathed to *C.D.* and her children [*similar directions as to the remaining two other fourth parts*];

And it is ordered that the said *I.K.*, *L.M.*, *N.O.* be at liberty to apply to the Court for payment to them respectively of their said shares on their respectively attaining their age of 21 years.

And any of the parties are to be at liberty to apply to the Court as they may be advised.

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343. [310.]

LETTER TO COMMISSIONERS OF TREASURY AS TO DRAWING OUT MONEY.

(*Seal.*)

County Court Office,

My Lords,

Order  
XXXVII.,  
Rule 3

I have the honour to request that an authority may be addressed to the Postmaster General to allow me to draw out of the Post Office Savings Bank the sum of £                      [*here insert the sum desired to be drawn out, adding, where the sum is not to pay interest*] being the sum I am directed to draw out by order of Court dated the                      day of                      19                      .

I am, my Lords,

Your obedient servant,

Registrar of the County Court  
holden at

of

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344. [290.]

NOTICE OF APPLICATION FOR INTERLOCUTORY ORDER IN THE  
NATURE OF AN INJUNCTION.

[*Not to be printed.*]

Order XII.,  
Rules 6, 8.

Take notice, that I, *A.B.*, intend to apply at the sitting of the Court to be held at                      [*or to His Honour the Judge at*                      ]  
on                      the                      day of                      19                      ,  
at                      o'clock in the                      noon, for an order in the  
nature of an injunction to restrain *C.D.*, of                      from receiving  
and giving discharges for any of the debts due to the partnership between us,  
for the winding up of which this action was commenced [*or from digging the*  
turf from the land which was agreed to be sold by him to me by the agreement,



the specific performance of which this action is commenced to enforce, *or as the case may be*].

Dated this                      day of                      19 .

A.B.

To the Registrar of the Court  
and (*if the application is not made ex parte*)  
To C.D., of

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345. [291.]

INTERLOCUTORY ORDER IN THE NATURE OF AN INJUNCTION.

The Plaintiff undertaking [by his counsel *or* solicitor] to abide by any order this Court may make as to damages, in case this Court shall hereafter be of opinion that the Defendant shall have sustained any by reason of this order, which the Plaintiff ought to pay : Now, therefore, C.D., the Defendant in this action, his servants, agents, and workmen, are hereby strictly enjoined and restrained from pulling down or suffering to be pulled down the house being Number                      Street,                      , in the county of                      , and from selling the materials whereof the said house is composed [*or* from entering into any contract or contracts, and from accepting, drawing, indorsing, or negotiating any bills or bill of exchange, notes or note, or written securities or security, in the name of the partnership firm of                      , and from contracting any debts or debt, and buying and selling any goods, and from making or entering into any verbal or written promise, agreement, or undertaking, and from doing or causing to be done any acts or act in the name or on the credit of the said partnership firm, or whereby the said partnership firm can or may in any manner become or be made liable to or for the payment of any sums or sum of money, or for the performance of any contract, promise or undertaking, *or as the case may be*] until the day after the day upon which this action shall be tried, or until further order [*or* until the                      day of                      , upon which day this Court will consider whether this order shall be further continued].

Order XII.,  
Rules 6, 8.

Dated this                      day of                      19

Judge.

If you, the said C.D. [your servants, agents, or workmen], act in disobedience to this order, you, the said C.D., will be liable to be committed to prison by this Court.

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346. [292A., Feb., 1892.]

NOTICE TO BE INDORSED ON ORDER UNDER ORDER XXIII., RULE 9, AND ORDER XXV., RULE 58.

[*Not to be printed.*]

To C.D., of

Take notice, that unless you obey the directions contained in this order, you will be guilty of a contempt of Court, and will be liable to be committed to prison.

Order XXIII.,  
Rule 9.  
Order XXV.,  
Rules 58, 71  
(2).

Dated this                      day of                      19 .

Registrar.

## 347. [293.]

## NOTICE OF APPLICATION FOR COMMITTAL.

[*Not to be printed.*]Order XXV.,  
Rule 59.

Take notice, that the Plaintiff *A.B.* will on the  
 day of 19 apply to this Court for an order for your  
 committal to prison for having disobeyed the order of this Court made on  
 the day of 19 enjoining and restraining you  
 [*here set out the terms of the injunction*] [*or for having neglected to obey the*  
*order made on the day of 19 requiring you*]  
 [*here set out the mandatory part of the order*]; and further take notice, that you  
 are hereby required to attend the Court on the first-mentioned day to show  
 cause why an order for your committal should not be made.

Dated this day of 19 .

Registrar.

To *C.D.*, the Defendant.

## 348. [294A., Feb., 1892.]

## ORDER OF COMMITTAL FOR BREACH OF OR NEGLECT TO OBEY ORDER.

[*Not to be printed.*]Order XXV.,  
Rule 60.

Whereas by an order of this Court, dated the day of  
 19 [*here recite the order*]: Now, upon the application of the Plaintiff, and  
 upon hearing the Defendant [*or if the Defendant does not appear, reading*  
*the affidavit of X.Y., or where service has been by a bailiff, the indorsement of*  
*L.M., a bailiff of this Court [or the county court of holden*  
*at ] showing [or being satisfied on oath] that a copy of the*  
*said order and notice of this application have been severally served upon the*  
*Defendant C.D.] and upon reading the affidavit of, &c. [or enter such other*  
*evidence as may have been given], the Court being of opinion, upon consideration*  
*of the facts disclosed by the said affidavit [or such other evidence as may have*  
*been given], that the said Defendant C.D. has been guilty of a contempt of this*  
*Court by a breach of [or by neglecting to obey] the said order, that is to say,*  
*by [here set out the particular matter of contempt], doth order that the said*  
*Defendant C.D. do stand committed to [here insert prison used by the Court]*  
*for his said contempt, and that a warrant of attachment for the arrest of the*  
*said C.D. be forthwith issued.*

[And it is ordered that the said Defendant *C.D.* do pay the costs of the  
 Plaintiff of this application and of the said attachment, such costs to be taxed  
 by the Registrar and paid by the said Defendant to the Registrar within  
 fourteen days from the date of the certificate of taxation.]

[*Add, if so ordered*—And it is further ordered that any application for the  
 release of the said *C.D.* from custody shall be made to the Judge.]

349. [296.]

## WARRANT OF ATTACHMENT.

To the High Bailiff and others the bailiffs of the said Court, and all peace officers within the jurisdiction of the said Court, and to the Governor of the [here insert prison used by the Court]. Order XXV.,  
Rule 57.

Whereas by an order bearing date the                      day of                      it was ordered that the Defendant *C.D.* should stand committed to prison for contempt of this Court :

These are therefore to require you forthwith to arrest and apprehend the Defendant *C.D.*, and him safely convey and deliver to the Governor of the [prison used by this Court], and you, the said Governor, to receive the Defendant *C.D.* until the further order of this Court.

Dated this                      day of                      19                      .

Registrar.

350. [298.]

## NOTICE OF APPLICATION FOR DISCHARGE FROM CUSTODY.

[Not to be printed.]

Take notice, that I intend on the                      day of                      19                      to apply to the Judge of this Court [or the Registrar of this Court] to discharge me from custody, I being desirous of clearing my contempt. Order XXV.,  
Rules 62, 63.

Dated this                      day of                      19                      .

*C.D.*, Defendant.

To *A.B.*, Plaintiff.

351. [299.]

## ORDER OF DISCHARGE FROM CUSTODY.

Upon application made this                      day of                      by                      for the Defendant, who was committed to prison for contempt, by order of this Court, dated the                      day of                      19                      , and upon reading the affidavit of the Defendant filed the                      day of                      19                      , showing that he is desirous of clearing his contempt, and upon hearing                      for the Plaintiff [or if no one appears for Plaintiff, then upon being satisfied that the notice of this application has been duly served upon the Plaintiff], Order XXV.,  
Rules 62, 63.

It is ordered that the said Defendant be discharged out of the custody of the Governor of [here insert name of prison] as to the said contempt.

[*Add, if so ordered*—And it is ordered that the said Defendant do pay the costs of the Plaintiff of this application, such costs to be taxed by the Registrar and paid by the Defendant to the Registrar within fourteen days from the date of the certificate of taxation].

Dated this                      day of                      19     .

Registrar.

352. [287.]

NOTICE OF CHANGE OF SOLICITOR.

[*Not to be printed.*]

To the Registrar of the Court.

Order LIV.,  
Rule 6.

Take notice, that I, *A.B.* [*or C.D.*], who have hitherto employed *G.H.* of  
as my solicitor in the above-mentioned action, have  
ceased to employ him, and that my present solicitor is *I.K.* of

Dated this                      day of                      19     .

*A.B.* [*or C.D.*]

353. [175.]

NOTICE TO HIGH BAILIFF OF FOREIGN COURT OF COMPLAINT AGAINST HIM.

[*Not to be printed.*]

Order II.,  
Rule 29.

Take notice, that unless you show cause to the contrary His Honour the  
Judge of this Court will on                      the                      day of                      19     ,  
make an order directing you to pay to the Plaintiff such sum as the Judge may  
think reasonable as compensation for loss of time and expense incurred by him  
owing to your neglect to return the copy of the summons in this action within  
due time.

Dated this                      day of                      19     .

Registrar.

To the High Bailiff of  
the County Court of

holden at                      .

354. [176.]

NOTICE TO HIGH BAILIFF OF FOREIGN COURT OF ORDER AGAINST HIM  
FOR NEGLECT.

[*Not to be printed.*]

Order II.,  
Rule 29.

Take notice, that on the application of the above-named Plaintiff made  
the                      day of                      , and you not having shown good cause  
to the contrary, it was ordered by the Judge of this Court that within  
days of the service of this order upon you you should pay to me for the use of

the said Plaintiff the sum of £                      as compensation for loss of time and  
expense incurred by him owing to your neglect to return to me the copy of the  
summons in this action within due time.

Dated this                      day of                      19 .

Registrar.

To the High Bailiff of  
the County Court of                      holden at                      .

355. [177.]

SUMMONS UNDER SECTION 48 OF THE COUNTY COURTS ACT, 1888, FOR  
ASSAULTING A BAILIFF WHILST IN THE EXECUTION OF HIS DUTY.

In the County Court of                      holden at                      .

In the matter of a complaint made by *C.D.*                      of  
one of the bailiffs of the County Court of                      holden at  
and section 48 of the County Courts Act, 1888.

51 & 52 Vict.  
c. 43, s. 48.  
Order LII.,  
Rule 1.

To *A.B.*                      of

You are hereby summoned to appear at a County Court to be holden at  
on                      the                      day of                      19 ,  
at                      o'clock in the                      noon, to answer a complaint made against you  
by *C.D.*,                      one of the Bailiffs of the said Court, and to show cause  
why an order should not be made against you under section 48 of the  
County Courts Act, 1888, for payment of a sum not exceeding 5*l.*, for an assault  
committed by you on                      the                      day of                      upon  
the said Bailiff whilst in the execution of his duty as such Bailiff [and also for  
that you did on the same day rescue [*or attempt to rescue*] certain goods levied  
by the said Bailiff under process of this Court].

Dated this                      day of                      19 .

Registrar.

*To be served personally two clear days before the return day.*

356. [177A., April, 1895.]

ORDER UNDER SECTION 48 OF THE COUNTY COURTS ACT, 1888, IMPOSING  
A FINE FOR ASSAULTING A BAILIFF.

51 & 52 Vict.  
c. 43, s. 48.  
Order LII.  
Rule 3.

In the County Court of                      holden at                      .

In the matter of a complaint made by *C.D.*                      of                      , one  
of the bailiffs of the County Court of                      holden at  
and section 48 of the County Courts Act, 1888.

It is this day adjudged that *A.B.* of do forfeit and pay a sum of £ for an assault committed by him on the day of upon the said bailiff whilst in the execution of his duty as such bailiff [and also for that the said *A.B.* did on the same day rescue [*or* attempt to rescue] certain goods levied by the said bailiff under process of this Court], and the sum of £ for costs, amounting together to the sum of £ ;

And it is ordered that the said *A.B.* do pay the said sum of £ to the Registrar of this Court on the day of [*or* by instalments of for every days, the first instalment to be paid on the day of ] :

And that in default of payment of the said sums according to this order, payment thereof may be enforced, upon the order of the Judge, pursuant to section 167 of the County Courts Act, 1888, by distress and sale of the goods of the said *A.B.* under warrant of execution, or, in default or in lieu of distress, by imprisonment of the said *A.B.* for any period not exceeding the period which under the Summary Jurisdiction Acts may be imposed in respect of the default of sufficient distress to satisfy a similar sum adjudged to be paid on summary conviction.

Given under the seal of the Court this day of 19 .

By the Court,

Registrar.

357. [177B., April, 1895.]

WARRANT OF EXECUTION AGAINST GOODS FOR FINE UNDER  
SECTION 48.

Order LII.,  
Rule 3.

In the County Court of holden at .

In the matter of a complaint made by *C.D.* of ,  
one of the bailiffs of the County Court of holden at ,  
and section 48 of the County Courts Act, 1888.

Whereas at a Court holden on the day of it was adjudged that *A.B.* of should forfeit and pay a sum of £ for an assault committed by him on the day of upon the said bailiff whilst in the execution of his duty as such bailiff [and also for that the said *A.B.* did on the same day rescue [*or* attempt to rescue] certain goods levied by the said bailiff under process of this Court], and the sum of £ for costs, amounting together to the sum of £ :

And it was ordered that the said *A.B.* should pay the said sum of £ to the Registrar of the Court on the day of [*or* by instalments of for every days, the first instalment to be paid on the day of 19 ] ;

And that in default of payment of the said sums according to the said order, payment thereof might be enforced, upon the order of the Judge, pursuant to section 167 of the County Court Acts, 1888, by distress and sale of the goods of the said *A.B.* under warrant of execution :

And whereas the said sums have not been paid according to the said order, and the Judge of this Court has ordered them to be levied as herein-after mentioned :

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the said *A.B.* where-soever they may be found within the district of this Court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount remaining unpaid under the said order, together with the costs of this execution ; and also to take and seize any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money belonging to the said *A.B.* which may be there found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof ; and if no sufficient distress can be found, to certify the same to the Registrar of this Court.

Given under the seal of the Court this                      day of  
19 .

By the Court,

Registrar.

To the High Bailiff of the said Court, and others the bailiffs thereof.

	£	s.	d.
Amount of fine and costs adjudged ... ..			
Paid ... ..			
Remaining due ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon].			

*Notice.*—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said *A.B.*

Application was made to the Registrar for this warrant at                      minutes  
past the hour of                      in the                      noon of the                      day of  
19 .

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

358. [177C., April, 1895.]

## RETURN OF INSUFFICIENT DISTRESS, TO BE INDORSED ON WARRANT.

I, High Bailiff [*or* bailiff] of the County Court of  
holden at , hereby certify that by virtue of the within written  
warrant I have made diligent search for the goods of the within-named *A.B.*,  
and that I can find no sufficient goods of him whereon the sums  
within mentioned can be levied.

Dated the                      day of                      19 .

*X.Y.*

359. [177D., April, 1895.]

Order LII.,  
Rule 3.

## COMMITMENT IN DEFAULT OF DISTRESS FOR FINE UNDER SECTION 48.

In the County Court of                      holden at                      .

In the matter, &c. [*as in Form 355*].

To the High Bailiff and others the bailiffs of the said Court, and all peace  
officers within the jurisdiction of the said Court, and

To the Governor of [*prison used by the Court*].

Whereas at a Court holden on the                      day of  
it was adjudged that *A.B.*                      of                      should forfeit and  
pay a sum of £                      for an assault committed by him on the  
day of                      upon the said bailiff whilst in the execution of his duty as  
such bailiff [and also for that the said *A.B.*                      did on the same day  
rescue [*or* attempt to rescue] certain goods levied by the said bailiff under  
process of this Court], and the sum of £                      for costs, amounting  
together to the sum of £                      ;

And it was ordered that the said *A.B.*                      should pay the said  
sum of £                      to the Registrar of the Court on the                      day  
of                      [*or* by instalments of                      for every  
days, the first instalment to be paid on the                      day of  
19    ] :

And that in default of payment of the said sums according to the said order,  
payment thereof might be enforced, upon the order of the Judge, pursuant to  
section 167 of the County Courts Act, 1888, by distress and sale of the goods  
of the said *A.B.*                      under warrant of execution, or, in default or  
in lieu of distress, by imprisonment of the said *A.B.*                      for any  
period not exceeding the period which under the Summary Jurisdiction Acts  
may be imposed in respect of the default of sufficient distress to satisfy a  
similar sum adjudged to be paid on summary conviction :

\* And whereas default having been made in payment of the sums due under  
the said order the High Bailiff and others the bailiffs of this Court were by  
warrant of execution dated the                      day of                      , and  
issued by order of the Judge, required to levy the sum of £                      by  
distress and sale of the goods and chattels of the said *A.B.* :



And whereas it appears that no sufficient distress whereon to levy the said sum could be found [and that a balance of £                      is due under the said order] :

It is hereby ordered by the Judge that the said *A.B.*                      be imprisoned in His Majesty's Prison at                      , and there kept for the space of                      , unless the said sum of £                      remaining due under the said order, and the costs of the said distress and the costs of this warrant, be sooner paid :

For scale of imprisonment, *see* 42 & 43 Vict. c. 49. ss. 5, 21 (4) Appendix, Part III.

And these are therefore to require you, the said High Bailiff, bailiffs, and others, to take the said *A.B.*                      and to deliver him to the Governor of the above-named prison, together with this warrant, and you the said Governor to receive the said *A.B.*                      into your custody, and him safely to keep in the said prison for the space of                      , unless the sum stated at the foot of this warrant, being the amount remaining due under the said order, and the costs of the said distress and the costs of this warrant, be sooner paid.

Given under the seal of the Court this                      day of  
19                      .

By the Court,

Registrar.

	£	s.	d.
Amount remaining due under order ... ..			
Costs of warrant of execution ... ..			
Ponndage for issuing this warrant ... ..			
Total sum upon payment of which the prisoner is to be discharged			

360. [177E., April, 1895.]

#### COMMITMENT IN LIEU OF DISTRESS FOR FINE UNDER SECTION 48.

In the County Court of                      holden at

Order LII.,  
Rule 3.

In the matter, &c. [*as in Form 355*].

To the High Bailiff and others the bailiffs of the said Court, and all peace officers within the jurisdiction of the said Court, and

To the Governor of [*prison used by the Court*].

Whereas at a Court holden on the                      day of                      it was adjudged that *A.B.*                      of                      should forfeit and pay a sum of £                      for an assault committed by him on the                      day of                      upon the said bailiff whilst in the execution of his duty as such bailiff [and also for that the said *A.B.*                      did on the same day rescue [*or attempt to rescue*] certain goods levied by the said bailiff under process of this Court], and the sum of £                      for costs, amounting together to the sum of £                      ;

And it was ordered that the said *A.B.* should pay the said sum of £ to the Registrar of the Court on the day of [or by instalments of £ for every days, the first instalment to be paid on the day of 19 ] :

And that in default of payment of the said sums according to the said order, payment thereof might be enforced, upon the order of the Judge, pursuant to section 167 of the County Courts Act, 1888, by distress and sale of the goods of the said *A.B.* under warrant of execution, or, in default or in lieu of distress, by imprisonment of the said *A.B.* for any period not exceeding the period which under the Summary Jurisdiction Acts may be imposed in respect of the default of sufficient distress to satisfy a similar sum adjudged to be paid on summary conviction :

\* And whereas default has been made in payment of the sums due under the said order, and the sum of £ remains due under the said order :

42 & 43 Vict.  
c. 49. s. 21 (3).  
Summary  
Jurisdiction  
Rules, 1886,  
Form 29.

And whereas it appears to the Judge that the said *A.B.* has no [sufficient] goods whereon to levy a distress [or that the levy of a distress will be more injurious to the said *A.B.* and his family than imprisonment] :

See 42 & 43  
Vict. c. 49.  
ss. 5, 21 (4).  
Appendix,  
Part III.

It is hereby ordered by the Judge that the said *A.B.* be imprisoned in His Majesty's Prison at , and there kept for the space of , unless the said sum of £ remaining due under the said order, and the costs of his commitment, be sooner paid.

And these are therefore to require you, the said High Bailiff, bailiffs, and others, to take the said *A.B.* and to deliver him to the Governor of the above-named prison, together with this warrant, and you the said Governor to receive the said *A.B.* into your custody, and him safely to keep in the said prison for the space of , unless the sum stated at the foot of this warrant, being the amount remaining due under the said order, and the costs of this warrant, be sooner paid.

Given under the seal of the Court this day of 19 .

By the Court,

Registrar.

	£	s.	d.
Amount remaining due under order ... ..			
Poundage for issuing this warrant ... ..			
Total sum upon payment of which the prisoner is to be discharged...			

361. [177F., April, 1895.]

SUMMONS UNDER SECTION 49 OF THE COUNTY COURTS ACT, 1888, FOR  
NEGLECT TO LEVY EXECUTION.

51 & 52 Vict.,  
c. 43, s. 49.  
Order LII.,  
Rule 4.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_ .

Between

A.B.

Plaintiff,

and

C.D.

Defendant,

and in the matter of a complaint made by  
of \_\_\_\_\_

, and section 49 of the County

Courts Act, 1888.

To E.F. \_\_\_\_\_ of \_\_\_\_\_, bailiff of the  
said Court.

You are hereby summoned to appear at a County Court to be holden at  
\_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_  
at \_\_\_\_\_ o'clock in the forenoon, to answer a complaint made  
against you by \_\_\_\_\_ of \_\_\_\_\_ that  
you being employed to levy an execution against the goods and chattels  
of \_\_\_\_\_ did by neglect [*or connivance or omission*] lose the  
opportunity of levying such execution, and to show cause why an order should  
not be made against you under section 49 of the County Courts Act, 1888, for  
payment of such damages as it shall appear that the said  
has sustained by such your neglect [*or connivance or omission*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Registrar.

[*To be served personally ten clear days before the return day.*]

362. [177G., April, 1895.]

ORDER UNDER SECTION 49 OF THE COUNTY COURTS ACT, 1888, AWARDED  
DAMAGES FOR NEGLECT TO LEVY EXECUTION.

51 & 52 Vict.,  
c. 43, s. 49.  
Order LII.,  
Rule 5.

[*Heading as in last preceding Form.*]

It is this day adjudged that E.F. \_\_\_\_\_ of \_\_\_\_\_,  
bailiff of this Court, do pay the sum of £ \_\_\_\_\_ for damages sustained  
by \_\_\_\_\_ of \_\_\_\_\_ by reason of the said E.F.  
having by neglect [*or connivance or omission*] lost the opportunity of levying  
an execution against the goods and chattels of \_\_\_\_\_, and  
the sum of £ \_\_\_\_\_ for costs, amounting together to the sum  
of £ \_\_\_\_\_ ;

And it is ordered that the said E.F. \_\_\_\_\_ do pay the said  
sum of £ \_\_\_\_\_ to the Registrar of this Court on the \_\_\_\_\_  
day of \_\_\_\_\_ [*or by instalments of \_\_\_\_\_*] for  
every \_\_\_\_\_ days, the first instalment to be paid on the \_\_\_\_\_  
day of \_\_\_\_\_ ].

363. [177H., April, 1895.]

51 & 52 Vict.  
c. 43. s. 50.  
Order LII.,  
Rule 4

SUMMONS UNDER SECTION 50 OF THE COUNTY COURTS ACT, 1888, FOR  
EXTORTION OR MISCONDUCT.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_ .

Between  
A.B. \_\_\_\_\_ Plaintiff,  
and  
C.D. \_\_\_\_\_ Defendant,

and in the matter of a complaint made by  
of \_\_\_\_\_ , and section 50 of the County  
Courts Act, 1888.

To E.F. \_\_\_\_\_ of \_\_\_\_\_ , bailiff [*or*  
other officer] of the said Court.

You are hereby summoned to appear at a County Court to be holden  
at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of  
at \_\_\_\_\_ o'clock in the forenoon, to answer a complaint made  
against you by \_\_\_\_\_ of \_\_\_\_\_ that  
you have while acting under colour or pretence of the process of the Court been  
guilty of extortion [*or* misconduct] in that you [*here state particulars of*  
*extortion or misconduct alleged*] [*or as stated in the particulars annexed (annex*  
*particulars of extortion or misconduct alleged)*] [*or that you have not duly paid*  
or accounted for certain monies levied by you against  
of \_\_\_\_\_ at the suit of \_\_\_\_\_  
under the authority of the County Courts Act, 1888], and to show cause why  
an order should not be made against you under section 50 of the County  
Courts Acts, 1888, for the repayment of the money extorted by you [*or for the*  
due payment of the money so levied by you], and for the payment of such  
damages and costs as the Judge shall think just, and for the payment of a fine  
not exceeding 10*l.* for each offence so committed by you.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

Registrar

[*To be served personally ten clear days before the return day.*]

364. [177I., April, 1895.]

51 & 52 Vict.  
c. 43. s. 50.  
Order LII.,  
Rule 5.

ORDER UNDER SECTION 50 OF THE COUNTY COURTS ACT, 1888, FOR  
REPAYMENT OF MONEY EXTORTED, OR PAYMENT OF MONEY LEVIED,  
AND FOR DAMAGES, COSTS, AND FINE.

[*Heading as in last preceding Form.*]

It is this day adjudged that E.F. \_\_\_\_\_ of \_\_\_\_\_ , bailiff  
[*or other officer*] of the Court, do repay the sum of £ \_\_\_\_\_ extorted by  
him from \_\_\_\_\_ under colour or pretence of the process of this  
Court [*or do pay the sum of £ \_\_\_\_\_ levied by him against*  
of \_\_\_\_\_ at the suit of \_\_\_\_\_ under the authority of the

And it is further adjudged that the said *E.F.* do forfeit and pay the sum of £                      for the offence [*or for each offence*] so committed by him in [*here state particulars of each offence in respect of which a fine is imposed*] the sums to be paid by the said *E.F.* amounting together to the sum of £                      .

And it is ordered that the said *E.F.* do pay the said sum of  
to the Registrar of this Court on the day of [or by  
instalments of for every days, the first instalment to be  
paid on the day of ].

ORDER UNDER SECTION 162 OF THE COUNTY COURTS ACT, 1888, FOR 51 & 52 Vict.  
IMPRISONMENT OR FINE FOR INSULT OR MISBEHAVIOUR. c. 43, s. 162.  
Order VII

holden at

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ *A.B.* wilfully insulted his Honour the Judge during his sitting in Court [*or in going to [or returning from] the Court*] [*or C.D.*, \_\_\_\_\_ the Registrar *or E.F.* the High Bailiff *or G.H.* \_\_\_\_\_ a bailiff [*or officer*] of the Court *or J.K.* \_\_\_\_\_ a juror [*or witness*] during his attendance at the Court] *or in going to [or returning from] the Court*] [*as the case may be*], *or* wilfully interrupted the proceedings of the Court *or* misbehaved in the Court]:

It is hereby ordered that the said *A.B.* do stand committed for  
 days to His Majesty's Prison at [here insert prison used  
*by the Court*] for such offence.

Or, It is hereby ordered that the said *A.B.* do forfeit and pay the sum of £                      for such offence :

And it is ordered that the said A.B. do pay the said sum of  
£                  to the Registrar of this Court forthwith :

And that in default of payment the said *A.B.* be imprisoned in His Majesty's Prison at \_\_\_\_\_, and there kept for the space of \_\_\_\_\_ days, unless the said fine be sooner paid.

Given under the seal of the Court this                  day of                  19        .  
Judge.

366. [297B., April, 1895.]

51 & 52 Vict.  
c. 43. s. 162  
Order LII.,  
Rule 8.

WARRANT OF COMMITMENT UNDER SECTION 162 OF THE COUNTY COURTS  
ACT, 1888, FOR INSULT OR MISBEHAVIOUR.

In the County Court of

holden at

To the High Bailiff and others the bailiffs of the said Court, and all peace officers within the jurisdiction of the said Court, and

To the Governor of the [*prison used by the Court*].

Whereas on the                      day of                      A.B.                      wilfully insulted his Honour the Judge during his sitting in Court [*or as the case may be, reciting the insult or misbehaviour as stated in the Order, Form 365*], and his Honour the Judge thereupon ordered that the said A.B.                      should stand committed for                      days to His Majesty's Prison at                      for such offence :

These are therefore to require you the said High Bailiff, bailiffs, and others to take the said A.B.                      , and to deliver him to the Governor of the above-named prison, together with this warrant, and you the said Governor to receive the said A.B.                      , and him safely to keep in the said prison for                      days from the arrest under this warrant, or until he shall be sooner discharged by due course of law.

Given under the seal of the Court this

day of

19 .

Judge.

367. [297C., April, 1895.]

51 & 52 Vict.  
c. 43. s. 162.  
Order LII.,  
Rule 8.

WARRANT OF COMMITMENT UNDER SECTION 162 OF THE COUNTY COURTS  
ACT, 1888, IN DEFAULT OF PAYMENT OF FINE FOR INSULT OR  
MISBEHAVIOUR.

In the County Court of

holden at

To the High Bailiff, &c. [*as in last form*].

Whereas [*recite insult or misbehaviour as stated in the Order, Form 365*], and his Honour the Judge thereupon ordered that the said A.B.                      should forfeit and pay the said sum of £                      for such offence, and that the said A.B. should pay the said sum of £                      to the Registrar of the Court forthwith, and that in default of payment the said A.B. should be imprisoned in His Majesty's Prison at                      , and there kept for the space of                      days, unless the said fine should be sooner paid :

And whereas default has been made in payment of the said fine :

These are therefore to require you the said High Bailiff, bailiffs, and others to take the said A.B.                      , and to deliver him to the Governor of the above-named prison, together with this warrant, and you the said Governor to receive the said A.B.                      , and him safely to keep in the said prison for                      days from the arrest under this warrant, unless the said fine be sooner paid.

Given under the seal of the Court this

day of

19 .

Judge.

### Admiralty Jurisdiction.

I, *A.B.*, of [*address and description*], hereby desire to commence an action for [*state the nature of the action*], or I, *L.M.*, solicitor, hereby desire to commence an action on behalf of [*state name, address, and description of Plaintiff*], for [*state the nature of the action*] against [*if the action is instituted in rem, state the name and nature of the property proceeded against, and where it then is; if in personam, state name, address, and description of party proceeded against, the name and nature of the property to which the action relates, and where it is*], in the sum of [*state sum in letters*] pounds. And I consent that all instruments and documents in the said action may be left for me at [*state address*], [*add, where so desired*], and I require the summons to be served by the Bailiff of the Court.

Order  
XXXIX.,  
Rule 4.

Dated this                      day of                      19   .

369. [318].

[Not to be printed].

### Admiralty Jurisdiction.

[*Title of Action*].

Order  
XXXIX.,  
Rule 2.

I, *A.B.*, of [*address and description*] or I, *L.M.*, solicitor for *A.B.*, of [*address and description*], apply that permission may be granted for the hearing of this action at [*here state the name of the place at which and description of the building in which it is desired that the sitting should be held, and if the building is not one in which the County Court ordinarily sits, add, and I undertake to hire the use of the said building at my expense, and to pay the necessary expenses of the Judge and officers of the Court attending, to be allowed as costs in the action if the Court shall allow the same*].

Dated this                      day of                      19   .

370. [319A(1), May, 1899.]

## SUMMONS IN ADMIRALTY ACTION IN REM.

## Admiralty Jurisdiction.

In the County Court of

holden at

The “ ”

Between

A.B.,

Plaintiff,

[address and description]

and

The owners of the

Defendants.

Order  
XXXIX.,  
Rule 10.

Whereas an action for [state the nature of the action] has been instituted in this Court, on behalf of A.B. of , against the [state description of vessel], called the [name of vessel], (whereof C.D. is now or lately was master), [where action is against vessel and freight add, and the freight due for the transportation of the cargo now or lately laden therein, or where the action is against the vessel, cargo, and freight, add instead thereof, and the cargo now or lately laden therein, together with the freight due for the transportation thereof], in the sum of [state sum in letters] pounds, according to the particulars of claim hereunto annexed:

You are hereby summoned to enter an appearance in the said action within four clear days of the service hereof.

[If the claim is for salvage or towage, and is not of a liquidated nature, and is not for damages, add

If claim not  
liquidated,  
nor for  
damages.

You are also warned that if you do not enter an appearance as aforesaid, the Judge of this Court will proceed to hear and determine the said action, or to make such orders therein as to him shall seem fit].

[Or, if the claim is of a liquidated nature, add

If the claim  
is of a  
liquidated  
nature.

You are also warned that if you do not enter an appearance as aforesaid, the Plaintiff will be at liberty, on filing an affidavit of the service of this summons, to sign final judgment for the amount named in the particulars, with costs, to be taxed by the Registrar].

[Or, if the claim is for damages, add

If the action  
is for  
damages.

You are also warned that if you do not enter an appearance as aforesaid, the Plaintiff will be at liberty, on filing an affidavit of the service of this summons, to sign interlocutory judgment, with costs to be taxed, in which case the damages will be assessed by the Registrar under the rules provided for the assessment of damages].

Dated this

day of

19 .

Registrar.

To the Owners of and Parties interested in the [state description and name of vessel], [or cargo, &c., as the case may be].

N.B.—The solicitor for the Plaintiff A.B.  
[here state the address given in the *præcipe*].

is

of



### Admiralty Jurisdiction.

holden at

Between

Plaintiff,

and

Defendant.

You are hereby summoned to enter an appearance in the said action within four clear days of the service hereof.

*[If the claim is for salvage or towage, and is not a claim of a liquidated nature, and is not a claim for damages, add*

You are also warned that if you do not enter an appearance as aforesaid, the Judge of this Court will proceed to hear and determine the said action, or to make such orders therein as to him shall seem fit].

[Or, if the claim is of a liquidated nature, add

You are also warned that if you do not enter an appearance as aforesaid, the Plaintiff will be at liberty, on filing an affidavit of the service of this summons, to sign final judgment for the amount named in the particulars, with costs, to be taxed by the Registrar].

[Or, if the claim is for damages, add

You are also warned that if you do not enter an appearance as aforesaid, the Plaintiff will be at liberty, on filing an affidavit of the service of this summons, to sign interlocutory judgment, with costs to be taxed, in which case the damages will be assessed by the Registrar under the rules provided for the assessment of damages].

Dated this                      day of                      19   .

Registrar.

**To the Defendant.**

N.B.—The solicitor for the Plaintiff *A.B.* is of  
[*here state the address given in the præcipe*].

372. [321.]

## WARRANT OF ARREST AND DETENTION.

## Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rule 13.

Whereas an action has been instituted in this Court on behalf of *A.B.*  
of \_\_\_\_\_ against [*state description and name of vessel or property*]  
in the sum of [*state sum in letters*] pounds :

These are therefore to require and order you to arrest the said  
and to keep the same under safe arrest until you shall receive further orders  
from this Court.

Given under the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

By the Court,

Registrar.

To the High Bailiff of the said Court,  
and others the Bailiffs thereof.

373. [334.]

SOLICITOR'S ACCEPTANCE OF SERVICE OF SUMMONS, AND UNDERTAKING TO  
APPEAR AND TO PUT IN OR GIVE BAIL, &C., TO BE INDORSED  
ON SUMMONS.[*Not to be printed.*]

## Admiralty Jurisdiction.

Order  
XXXIX.,  
Rule 6.

I, *L.M.*, of [*address*], solicitor for *C.D.*, of [*address and description*], accept  
service hereof, and I undertake to appear for the said *C.D.*, according to the  
exigency of the within summons; and I also undertake within \_\_\_\_\_ days  
from the date hereof to put in or give bail herein in a sum not exceeding  
[*state amount for which undertaking given*] pounds, or to pay such sum into  
the County Court of \_\_\_\_\_ holden at \_\_\_\_\_ ; and I consent  
that all instruments and other documents in this action may be left for me  
at \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

## 374. [324.]

## PRÆCIPUE TO ENTER AN APPEARANCE.

[*Not to be printed.*]

Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rules 19, 22.

Enter an appearance in this action for the Defendant *C.D.*, of [*address and description*] [*or for E.F.*, of [*address and description*] who claims to have an interest in the vessel [*or property or fund in court*] the subject of this action].

All instruments and documents in the action may be left for the said *C.D.* [*or E.F.*] at [*state address*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

## 374A. [New.]

## NOTICE OF APPEARANCE.

[*Not to be printed.*]

Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rule 24.

Take notice, that I have this day entered an appearance in this action for the Defendant *C.D.* \_\_\_\_\_ of [*address and description*]

[*or for E.F.* \_\_\_\_\_ of [*address and description*]

who claims to have an interest in the vessel [*or property or fund in court*] the subject of this action].

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

## 375. [325.]

## NOTICE OF HEARING.

Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rules 35, 36.

Take notice, that this action will be heard at a Court to be holden on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ at [*here state where Court is to be held*], at the hour of \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Registrar.

To the Plaintiff and Defendant  
[*or Intervener*].

## 376. [New.]

## NOTICE OF TIME APPOINTED FOR TAKING BAIL BEFORE REGISTRAR.

## Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rule 40.

Take notice, that \_\_\_\_\_ the Defendant [*or* Intervener] in this action has proposed as his sureties *G.H.*, of \_\_\_\_\_ &c., and *J.K.*, of \_\_\_\_\_ &c. : And that if you have any valid objection to make to the proposed sureties, or either of them, you must attend at [*here insert place of office of Registrar*] on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, at the hour of \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, when the bail bond will be submitted for approval, and the proposed sureties will attend for the purpose of executing the bail papers and of being cross-examined as to their means, if required.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Registrar.

To \_\_\_\_\_,  
and his [*or their*] Solicitor.

## 377. [322.]

## BAIL BOND.

## Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rules 37, 39.

Whereas an action for \_\_\_\_\_ has been instituted in this Court on behalf of *A.B.*, of \_\_\_\_\_, against \_\_\_\_\_ [and against \_\_\_\_\_ intervening].

Now, therefore, we [*state names, addresses, and description of sureties*] jointly and severally submit ourselves to the jurisdiction of the said Court, and consent that if he [*or they*] the said \_\_\_\_\_ shall not pay what may be adjudged against him [*or them*] in the said action with costs, execution may issue forth against us, our heirs, executors, and administrators, our goods and chattels, for a sum not exceeding [*state sum in letters*] pounds.

[*Signatures of Sureties.*]

This bail bond was signed by the said \_\_\_\_\_, and  
the sureties, the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Before me,

Registrar  
[*or* Clerk to the Registrar nominated  
to take affidavits].

378. [322A., Feb., 1892.]

## AFFIDAVIT OF JUSTIFICATION.

[*Not to be printed.*]

Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

Order  
XXXIX.,  
Rules 37, 39.[*Title of Action.*]

I,  
of \_\_\_\_\_ (*add description*)  
one of the proposed sureties for  
make oath and say that I am worth more than the sum of  
\_\_\_\_\_ pounds after the payment of all my debts

Sworn at  
in the county of \_\_\_\_\_,  
this \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_.  
Before me  
A Commissioner for Oaths.

379. [322B., Feb., 1892].

## NOTICE OF BAIL TAKEN BEFORE COMMISSIONER.

[*Not to be printed.*]

Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

Order  
XXXIX.,  
Rule 41.[*Title of Action.*]

Take notice, that bail has been given in the sum of £ \_\_\_\_\_ on behalf of  
the above-named \_\_\_\_\_ to answer judgment in this action by

and that such bail has been taken before \_\_\_\_\_, a Commissioner  
to administer oaths in the Supreme Court of Judicature.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Yours, &amp;c.,

Solicitor for the

To

and his [*or their*] Solicitor. }

380. [322c., Feb., 1892.]

## AFFIDAVIT OF SERVICE OF NOTICE OF BAIL TAKEN BEFORE COMMISSIONER.

[*Not to be printed.*]

Admiralty Jurisdiction.

Order  
XXXIX.,  
Rule 41.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]

I, \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, clerk to  
of \_\_\_\_\_, in the \_\_\_\_\_ of the same place, solicitor for the \_\_\_\_\_ in this action,  
make oath and say as follows :

That I did on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_,  
at \_\_\_\_\_ of the clock in the \_\_\_\_\_ noon, serve on \_\_\_\_\_  
the solicitor for the \_\_\_\_\_  
a notice of bail in the words and figures following, viz. :

(Copy notice of bail, omitting heading.)

Sworn at \_\_\_\_\_, }  
in the county of \_\_\_\_\_, }  
this \_\_\_\_\_ day of \_\_\_\_\_, }  
19 \_\_\_\_\_, }  
Before me \_\_\_\_\_, }  
A Commissioner for Oaths. }

381. [New.]

## NOTICE REQUIRING SURETIES TO ATTEND FOR CROSS-EXAMINATION.

[*Not to be printed.*][*Title of Action.*]Order  
XXXIX.,  
Rule 42.

Take notice, that I require the sureties in this action to attend before you for  
the purpose of being cross-examined as to their means, and I request that a  
time may be fixed for such cross-examination.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_,

To the Registrar of the  
Court and to  
and his [*or their*]  
Solicitor.

## 382. [New.]

## NOTICE OF TIME APPOINTED FOR CROSS-EXAMINATION.

[*Title of Action.*]

Take notice, that I have appointed the day  
 of at the hour of in the noon, for the Order  
 cross-examination of the sureties in this action, when the said sureties are to XXXIX.,  
 attend at for the purpose of such cross-examination. Rule 43.

Dated this day of 19 .

To the  
 and his [*or their*] Solicitor  
 and to the  
 and his [*or their*] Solicitor.

Registrar.

## 383. [New.]

## PRÆCIPE FOR APPRAISEMENT.

[*Not to be printed.*][*Title of Action.*]

Take notice, that the Plaintiff hereby requires to have the value of the vessel Order  
 [*or property*] the subject of this action ascertained by appraisement. XXXIX.,  
 Rule 47.

Dated this day of 19 .

To the Registrar  
 of the Court.

## 384. [323.]

## ORDER OF RELEASE.

Admiralty Jurisdiction.

In the County Court of holden at

[*Title of Action.*]

You are hereby authorised and directed to release the now under Order  
 arrest of this Court by virtue of its warrant, upon the payment of all costs, XXXIX.,  
 charges, and expenses attending the custody thereof. Rule 43.

Given under the seal of the Court this of 19 .

By the Court

Registrar.

To the High Bailiff of the said Court,  
 and others the Bailiffs thereof.

385. [326.]

## ORDER OF TRANSFER TO HIGH COURT.

## Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rule 50.

Whereas it appears that the subject matter of this action exceeds the limit in respect of amount of the Admiralty jurisdiction of this Court [*or state otherwise as the case may be*] :

It is ordered that this action be transferred to the Probate, Divorce, and Admiralty Division of the High Court of Justice, together with the proceedings that have been had therein in this Court.

Given under the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

By the Court,

Registrar.

386. [327.]

## ORDER OF TRANSFER TO COUNTY COURT OR HIGH COURT.

## Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rule 50.

Whereas it hath been made to appear that this action could be more conveniently prosecuted in the County Court of \_\_\_\_\_ holden at \_\_\_\_\_, appointed to have Admiralty jurisdiction [*or in the High Court of Justice*] :

It is ordered that this action be transferred to the said Court, together with the proceedings that have been had therein in this Court.

Given under the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .

By the Court,

Registrar.

387. [333A., May, 1899.]

## PRÆCIPE FOR PAYING IN MONEY ON TENDER.

[*Not to be printed.*]

## Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rule 74.

Take notice, that I, C.D., \_\_\_\_\_ of [*address and description*], [*or I, L.M.,* \_\_\_\_\_ solicitor for C.D.. \_\_\_\_\_ of [*address and description*], do pay the sum of [*state sum in letters*] into Court in this action [*when paid by*]



*solicitor*, add at the request and by the authority of the said *C.D.* ],  
 I [*or he*] having agreed to tender and pay the same in settlement of the whole  
 claim of the Plaintiff [*or in settlement of so much of the claim of the Plaintiff*  
 as relates to [*state the part of the claim in respect of which payment is made*]:]

[And further take notice, that I do pay the further sum of [*state sum in*  
*letters*] into Court in respect of the costs incurred by the Plaintiff :]

[And further take notice, that notwithstanding such payment I [*or the said*  
*C.D.*, ] deny [*or denies*] my [*or his*] liability :]

And further take notice, that I [*or the said C.D.*, ] intend  
 . [*or intends*] to rely on the following ground of defence to this action, viz :—

That before action brought I [*or the said C.D.*, ], tendered the said  
 sum of [*state sum in letters*] to the Plaintiff.

Dated the                      day of                      19     .

To the Registrar of the Court,  
 and to  
     the Plaintiff and  
     his Solicitor.

388. [333B., May, 1899.]

#### NOTICE OF PAYMENT INTO COURT ON TENDER.

In the County Court of                      holden at                      .

[*Title of Action.*]

Take notice, that *C.D.*,                      , of [*address and description*] has this     Order  
 day paid into Court the sum of £                      in settlement of your whole     XXXIX.,  
 claim in this action [*or in settlement of so much of your claim in this action as*     Rule 75.  
 relates to                      ] [*and the further sum of £                      in respect of*  
 the costs incurred by you] in accordance with a præcipe, a copy of which  
 accompanies this notice.

You are hereby required, within forty-eight hours of the receipt of this  
 notice by you, to file a notice stating whether you accept or reject the tender so  
 made by the said *C.D.*

If you fail to do so, you will be deemed to have rejected it.

Dated this                      day of                      19     .

Registrar.

To the Plaintiff and  
     to                      his Solicitor.

389. [333c., May, 1899.]

NOTICE OF ACCEPTANCE OR REJECTION OF SUM PAID INTO COURT  
ON TENDER.[*Not to be printed.*]

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rule 76.

Take notice, that the Plaintiff accepts [*or rejects*] the sum of £  
paid by *C.D.*, \_\_\_\_\_ of  
into Court in satisfaction of the claim in respect of which it is paid in.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

To the Registrar of  
the Court and

To *C.D.*  
[*address and description*],  
and \_\_\_\_\_ his Solicitor.

390. [322d., Feb., 1892.]

## ADMISSION OF LIABILITY.

[*Not to be printed.*]

Admiralty Jurisdiction.

Order  
XXXIX.,  
Rule 93.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]

We, the undersigned, solicitors for the Defendants, hereby admit the liability  
of the Defendants for the collision in question in this action, and consent to a  
reference to ascertain the amount of damages and interest due to the Plaintiff.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

Yours, &amp;c.

Defendant's Solicitors.

To Mr.

Plaintiff's Solicitor.

President of the Admiralty Division,  
High Court of Justice.

393. [335.]

## SUMMONS TO ASSESSOR.

## Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rule 91.

You are hereby summoned to appear and serve as an assessor in this Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, to assist the Judge of this Court in the hearing and determining of this action [*or* to assist the Registrar in the assessment of damages], and in default of attendance you will be liable to a penalty not exceeding five pounds under section 15 of the County Courts Admiralty Jurisdiction Act, 1868.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

To \_\_\_\_\_  
of \_\_\_\_\_

Registrar.

394. [336.]

## ORDER FINING ASSESSOR FOR NON-ATTENDANCE.

## Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]

Whereas \_\_\_\_\_ was duly summoned to appear and serve as an assessor in this Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ ;

And whereas he has neglected, without sufficient cause shown, to appear and serve as required ;

It is hereby ordered that he shall forthwith [*or* on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ ] pay to the Registrar of this Court a fine of £ \_\_\_\_\_ for such neglect.

Given under the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

By the Court,

Registrar.

[*Title of Action.*]

And it is ordered that the Defendant [*or* Defendants] do pay the said sum and costs to the Registrar of this Court forthwith [*or* within \_\_\_\_\_ days] after the certificate of the result of such taxation [*or* do pay the said sum of £ \_\_\_\_\_ to the Registrar of this Court forthwith [*or* on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_] and do pay the amount of the said costs when taxed forthwith [*or* within \_\_\_\_\_ days] after the certificate of the result of such taxation].

By the Court,

Registrar.

## 396. [329.]

FINAL JUDGMENT IN ACTION IN REM.  
Admiralty Jurisdiction.

[Title of Action.]

It is this day adjudged that the Plaintiff *A.B.* of \_\_\_\_\_ do recover the sum of \_\_\_\_\_ pounds [in an action for salvage, for services rendered to [state description and name of vessel]; or in an action for towage, for services rendered in towing the [state description and name of vessel]; or in an action for necessities, for \_\_\_\_\_

necessaries supplied to the [*state description and name of vessel*]; or in an action for wages, for wages in respect of services rendered on board the [*state description and name of vessel*]; or in an action for damage to cargo, for damage caused to the cargo carried in the [*state description and name of vessel*]; or in an action for damage by collision, for damage caused to the [*state description and name of vessel*] by the Defendant's vessel [*state description and name of vessel which caused the damage*], together with the costs of this action, to be taxed by the Registrar.

And it is ordered that [*insert such directions as may be given by the Judge*].

Given under the seal of this Court this \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_.

By the Court,

Registrar.

---

397. [New.]

INTERLOCUTORY JUDGMENT IN ACTION FOR DAMAGES.

Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]

Order  
XXXIX  
Rules 36 (2)  
96.

It is this day adjudged that the Plaintiff *A.B.* is entitled to recover [*if the judgment is in personum* against the Defendant *C.D.*] damages for damage caused to the cargo carried in the [*state description and name of vessel*] [*or for damage caused to the* [*state description and name of vessel*] by the Defendant's vessel the [*state description and name of vessel which caused the damage*], together with the costs of this action, to be taxed by the Registrar.

And it is ordered that it be referred to the Registrar [*and an assessor* [*or two assessors*]] to assess the said damages under the rules provided for the assessment of damages.

Given under the seal of the Court this \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_.

By the Court,

Registrar.

---

398. [New.]

## NOTICE OF TIME AND PLACE FOR PROCEEDING ON REFERENCE.

## Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

Order  
XXXIX.,  
Rule 98.[*Title of Action.*]

Let all parties concerned attend me at \_\_\_\_\_ on \_\_\_\_\_  
 the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ o'clock in  
 the \_\_\_\_\_ noon, to proceed with the reference directed by the judgment [*or*  
*order*] in this action dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Registrar.

To \_\_\_\_\_

399. [322F., Feb., 1892.]

## REGISTRAR'S REPORT.

## Admiralty Jurisdiction.

Order  
XXXIX.,  
Rule 101.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]

Whereas by the judgment [*or order*] in this action, dated the  
 day of \_\_\_\_\_ 19\_\_\_\_, (*or by consent of the parties upon an admission of*  
*liability, or as the case may be*), the damages recoverable by the Plaintiff (*or by*  
*the Defendant on his counterclaim*) have been referred to me [*and (if so) to*  
*two assessors*] to report the amount thereof.

Now I hereby report that I have, [with the assistance of Messrs.  
 and \_\_\_\_\_ the assessors appointed], carefully examined the claim  
 and vouchers filed in this action, and having heard evidence on affidavit and  
*vivá voce (or as the case may be)* on behalf of the Plaintiff and Defendant, I find  
 that the Defendant is indebted to the Plaintiff (*or vice versá*) in the sum of  
 £ \_\_\_\_\_, as shown by the schedule hereto annexed, which sets forth in  
 separate columns the several amounts claimed and the amounts which I [in  
 conjunction with the said assessors] consider justly due to him in respect to  
 each item.

I am of opinion that interest at the rate of 4*l.* per cent. per annum from the  
 day of \_\_\_\_\_ 19\_\_\_\_, should be allowed on the said sum of  
 £ \_\_\_\_\_ until the date of payment.





## 401. [New.]

## NOTICE OF OBJECTION TO REPORT.

[*Not to be printed.*][*Title of Action.*]

Take notice, that I intend at the next sitting of the Court to be held after the expiration of twenty-one days from this date to object to the report of the Registrar on the reference ordered by the judgment [*or order*] in this action, dated the                      day of                      , 19                      , as regards the following items [*here state particulars of objection*] :

Order  
XXXIX.,  
Rule 102.

And I request the Registrar to file within seven days from the filing of this notice a statement of the reasons of his decision as regards the items hereinbefore specified.

Dated this                      day of                      19                      .

To the Registrar of the Court, and  
to [*the opposite party*].

## 402. [330A., May, 1899.]

PRÆCIPUE FOR WARRANT OF EXECUTION IN ACTION IN PERSONAM, OR  
AGAINST THE PARTIES GIVING BAIL AND THEIR SURETIES IN ACTION  
IN REM.

## Admiralty Jurisdiction.

In the County Court of                      holden at

[*Title of Action.*]

Issue a warrant of execution against the goods of the Defendant, *C.D.*,  
of [*address and description*], who was ordered by this Court on                      day of                      , to pay to the Plaintiff the  
the                      day of                      , to pay to the Plaintiff the  
sum of £                      [*here insert for what the sum was ordered to be paid*],  
and who has not paid the said sum as so ordered.

Order  
XXXIX.,  
Rules 54, 55.

[*or* Issue a warrant of execution against the goods of [*state names, addresses, and descriptions of parties to bail bond*], who on the                      day of                      , jointly and severally submitted themselves to the jurisdiction of this Court, and consented that if                      should not pay what might be adjudged against him [*or them*] in this action with costs, execution might issue forth against them the said                      their heirs, executors, and administrators, their goods and chattels, for a sum not exceeding [*state sum in letters*]                      pounds, the said                      having been ordered by the Court on the                      day of                      to

pay to the Plaintiff the sum of                      pounds [*here insert for what the sum was ordered to be paid*], and not having paid the said sum as so ordered].

Dated this                      day of                      19                      .

403. [331A., May, 1899.]

WARRANT OF EXECUTION AGAINST GOODS OF DEFENDANT IN ACTION  
IN PERSONAM, OR AGAINST GOODS OF PARTIES GIVING BAIL AND  
THEIR SURETIES IN ACTION IN REM.

Admiralty Jurisdiction.

In the County Court of                      holden at

[*Title of Action.*]

Order  
XXXIX.,  
Rules 54, 55.

Whereas on the                      day of                      19                      , the Plaintiff obtained a judgment in this Court against the Defendant *C.D.*                      for the sum of £                      for                      and costs to be taxed, and it was thereupon ordered by the Court that the Defendant *C.D.* should pay the said sum and costs to the Registrar of the Court forthwith [or within                      days] after the certificate of the result of such taxation :

And whereas the said costs were duly taxed, and were by the certificate of the Registrar, dated the                      day of                      , allowed at the sum of £                      :

And whereas default has been made in payment according to the said order :

[or, Whereas on the                      day of                      , 19                      , [*state names, addresses, and descriptions of parties to bail bond*] jointly and severally submitted themselves to the jurisdiction of this Court, and consented that if                      should not pay what might be adjudged against him [or them] in this action with costs, execution might issue forth against them the said                      their heirs, executors and administrators, their goods and chattels, for a sum not exceeding [*state sum in letters*]                      pounds :

And whereas on the                      day of                      , 19                      , the Plaintiff obtained a judgment in this Court in this action against the said                      for the sum of £                      for                      and costs to be taxed, and it was thereupon ordered by the Court that the said                      should pay the said sum and costs to the Registrar of the Court forthwith [or within                      days] after the certificate of the result of such taxation :

And whereas the said costs were duly taxed, and were by the certificate of the Registrar, dated the                      day of                      , allowed at the sum of £                      :

And whereas default has been made in payment according to the said order :

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the Defendant *C.D.*

[or of the said [*parties to bail bond*] wheresoever they may be found within the district of this Court (except the wearing apparel and bedding of him [or them] or his family [or their families], and the tools and implements of his

[or their] trade, if any, to the value, as regards each such party, of five pounds), the sum stated at the foot of this warrant, being the amount due to the Plaintiff under the said order [or, if the amount remaining due exceeds the sum specified in the bail bond, being the sum for which in default of payment of the amount adjudged against the said the said (*parties to bail bond*) consented that execution might issue forth against them], together with the costs of this execution; and also to seize and take any money or bank notes (whether the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the Defendant *C.D.* [or of the said (*parties to bail bond*)] which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court this                      day of  
19 .

By the Court,

Registrar.

To the High Bailiff of the said Court, and others the bailiffs thereof.

	£	s.	d.
Amount for which judgment was obtained ... ..			
Costs ... ..			
Total ... ..			
Amount paid ... ..			
Amount remaining due ... ..			
[If this amount exceeds the sum specified in the bail bond, add			
Amount for which bail bond given ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon].			

*Notice.*—The goods and chattels are not to be sold until after the expiration of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the Defendant [*or parties to bail bond*].

Application was made to the Registrar for this warrant at                      minutes  
past the hour of                      in the                      noon of the                      day of  
19 .

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*

*Note.*—If the amount due under the judgment or order does not exceed the sum specified in the bail bond, execution may issue for that amount; if it exceeds that sum, it must issue only for the sum specified in the bail bond.

## 404. [331B., May, 1899.]

PRÆCIPE FOR ISSUE OF NOTICE OF JUDGMENT OR ORDER IN REM, FOR  
SERVICE ON PERSONS APPEARING BY THE SHIP'S REGISTER TO HAVE  
AN INTEREST IN THE VESSEL, BUT WHO ARE NOT BEFORE THE COURT.

[*Not to be printed.*]

Admiralty Jurisdiction.

Order  
XXXIX.,  
Rule 57.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_ .

[*Title of Action.*]

I, *A.B.*, \_\_\_\_\_ of [*address and description*] the above-named Plaintiff  
[*or I, L.M.*, \_\_\_\_\_ solicitor for (*state name, address, and description of*  
*Plaintiff*)] have annexed hereunto a certified copy of the register of the vessel  
(*describing such vessel*) to which this action relates.

I request that a notice of the judgment [*or order*] obtained in this action on  
the \_\_\_\_\_ day of \_\_\_\_\_, may be issued for service on [*state*  
*names, addresses, and descriptions*] whose names appear on the register as  
having an interest in the said (*vessel*), but who are not before the Court, stating  
thereon that if they do not within seven clear days from the day of service of  
such notice deliver a præcipe to the Registrar applying for a re-hearing of this  
action, the vessel to which this action relates will be taken and sold in  
execution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

## 405. [331C., May, 1899.]

NOTICE OF JUDGMENT OR ORDER IN REM TO PERSONS APPEARING BY THE  
SHIP'S REGISTER TO HAVE AN INTEREST IN THE VESSEL, BUT WHO  
ARE NOT BEFORE THE COURT.

Admiralty Jurisdiction.

Order  
XXXIX.,  
Rule 57.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_ .

[*Title of Action.*]

To [*state names, addresses, and description of persons whose names appear*  
*on the ship's register as having an interest in the vessel, but who are not before*  
*the Court.*]

Take notice, that on the \_\_\_\_\_ day of \_\_\_\_\_ the above-named  
action for (*state the nature of the action*), \_\_\_\_\_ was commenced in this  
Court on behalf of *A.B.*, \_\_\_\_\_ of \_\_\_\_\_ against the (*state the*  
*vessel against which the action was commenced, as in the summons*):

And that on the \_\_\_\_\_ day of \_\_\_\_\_ it was adjudged (*state the*  
*judgment*):

And that the Plaintiff has filed a præcipe in this Court, and has annexed thereto a certified copy of the register of the said (*vessel*) on which the names of you, the above-named , appear as having an interest in the said vessel.

And further take notice, that if you do not within seven clear days from the day of the service of this notice upon you deliver to me at my office situate at a præcipe applying for a re-hearing of this action, the vessel to which this action relates will be taken and sold in execution.

Dated this                      day of                      19 .

By the Court,

Registrar.

---

406. [331D., May, 1899.]

PRÆCIPLE FOR ISSUE OF NOTICE OF JUDGMENT OR ORDER IN REM FOR SERVICE ON OWNERS OF AND PERSONS INTERESTED IN VESSEL OR PROPERTY, WHEN ASCERTAINED.

[*Not to be printed.*]

Admiralty Jurisdiction.

Order  
XXXIX.,  
Rule 59.

In the County Court of                      holden at

[*Title of Action.*]

I, A.B.,                      of (*address and description*), the above-named Plaintiff  
[or I, L.M.,                      solicitor for (*state name, address, and description of Plaintiff*)], have ascertained that the names, addresses, and descriptions of the owners of the vessel [*or property (describing such vessel or property)*] to which this action relates are as follows :—

[*If the vessel is a British-owned vessel, add, A certified copy of the register of the said vessel is hereunto annexed.*]

I request that a notice of the judgment [*or order*] obtained in this action on                      the                      day of                      , may be issued for service on the said (*owners*),                      . [*If the vessel is a British-owned vessel, add, and upon the other persons whose names appear on the register as having an interest in the said (vessel)*], stating thereon that if they do not within seven clear days from the day of service of such notice deliver a præcipe to the Registrar applying for a re-hearing of this action, the vessel [*or property*] to which this action relates will be taken and sold in execution.

Dated this                      day of                      19 .

407. [331E., May, 1899.]

NOTICE OF JUDGMENT OR ORDER IN REM TO OWNERS OF AND PERSONS  
INTERESTED IN VESSEL OR PROPERTY, WHEN ASCERTAINED.

Admiralty Jurisdiction.

Order  
XXXIX,  
Rule 5<sup>th</sup>.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]

To \_\_\_\_\_ (*state names, addresses, and descriptions of persons stated in the præcipe to be owners of the vessel or property*) [*and, if the vessel is a British-owned vessel, state also names, addresses, and descriptions of persons whose names appear on the register as having an interest in the vessel*].

Take notice, that on the \_\_\_\_\_ day of \_\_\_\_\_ the above-named action for (*state the nature of the action*) was commenced in this Court on behalf of A.B. \_\_\_\_\_, of \_\_\_\_\_, against the (*state the vessel or property against which the action was commenced, as in the summons*):

And that on \_\_\_\_\_ day of \_\_\_\_\_, it was adjudged (*state the judgment*):

And that the Plaintiff has filed a præcipe in this Court stating that you, the above-named (*owners*) \_\_\_\_\_ are the owners of the vessel [*or property*] to which this action relates.

[*If the vessel is a British-owned, add and has annexed thereto a certified copy of the register of the said (vessel) on which the names of you, the above-named \_\_\_\_\_ appear as having an interest in the said vessel.*]

And further take notice, that if you do not within seven clear days from the day of the service of this notice upon you deliver to me at my office situate at \_\_\_\_\_ a præcipe applying for a re-hearing of this action, the vessel [*or property*] to which this action relates will be taken and sold in execution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

By the Court,

Registrar.

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408. [331F., May, 1899.]

ORDER DIRECTING NOTICE OF JUDGMENT OR ORDER IN REM TO BE GIVEN  
TO OWNERS OF AND PERSONS CLAIMING TO HAVE AN INTEREST  
IN VESSEL OR PROPERTY, WHERE OWNERS CANNOT BE ASCERTAINED.

Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_  
[*Title of Action.*]

Order  
XXXIX.,  
Rule 61.

Upon the application of \_\_\_\_\_  
and upon reading an affidavit of  
of \_\_\_\_\_  
sworn the \_\_\_\_\_ day of \_\_\_\_\_ .

It is ordered that notice of the judgment [*or order*] obtained in this action on  
the \_\_\_\_\_ day of \_\_\_\_\_ be given to the owners of and all  
persons claiming to have an interest in the vessel [*or property*] to which this  
action relates, by the publication of such notice in

(*or as the Court may direct*) together with a notice informing such persons that  
if they do not within [*not less than ten*] clear days from the date of the  
publication of such notice deliver a præcipe to the Registrar applying for a  
re-hearing of this action, the vessel [*or property*] to which this action relates  
will be taken and sold in execution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .  
By the Court,

Registrar.

409. [331G., May, 1899.]

NOTICE OF JUDGMENT OR ORDER IN REM TO OWNERS OF AND PERSONS  
CLAIMING TO HAVE AN INTEREST IN VESSEL OR PROPERTY, WHERE  
OWNERS CANNOT BE ASCERTAINED.

Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_  
[*Title of Action.*]

Order  
XXXIX.,  
Rule 61.

To the owners of and all persons claiming to have an interest in the vessel  
[*or property*] to which the above-mentioned action relates.

Pursuant to an order made by the Court in the above-mentioned action on  
the \_\_\_\_\_ day of \_\_\_\_\_ .

Notice is hereby given—

That on the                      day of                      the above-named action for  
(*state the nature of the action*) was commenced in this Court on behalf of *A.B.*  
of                      , against the (*state the vessel or property*  
*against which the action was commenced, as in the summons*):                      .

And that on the                      day of                      it was adjudged  
(*state the judgment*):

And pursuant to the said order of the                      day of                      .

Notice is hereby further given—

That unless the owners of and persons claiming to have an interest in the  
said vessel [*or property*] shall within [*not less than ten*] clear days from the  
date of the publication of this notice deliver to me at my office situate  
at                      a præcipe  
applying for a re-hearing of this action, the vessel [*or property*] to which this  
action relates will be taken and sold in execution.

Dated this                      day of                      19                      .

By the Court,

Registrar.

---

410. [331H., May, 1899.]

PRÆCIPE APPLYING FOR RE-HEARING.

[*Not to be printed.*]

Admiralty Jurisdiction.

Order  
XXXIX.,  
Rule 62.

In the County Court of                      holden at                      .

[*Title of Action.*]

Enter an appearance for                      *E.F.*                      [*address*  
*and description*] who claims to be the owner of [*or to have an interest in*] the  
vessel [*or property*] to which this action relates, and applies for a re-hearing of  
this action pursuant to the notice in this action dated the  
day of

All instruments and documents in the action may be left for the said  
*E.F.*                      at (*state address*).

Dated this                      day of                      19                      .

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## 411. [331r., May, 1899.]

PRÆCIPUE FOR WARRANT OF EXECUTION AGAINST VESSEL OR PROPERTY  
IN ACTION IN REM.[*Not to be printed.*]

Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rule 64.

Issue a warrant of execution against (*state description and name of vessel or other property to which the action relates*), the Judge [*or Registrar*] having ordered the same to be taken and sold in execution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

## 412. [331k., May, 1899.]

WARRANT OF EXECUTION AGAINST VESSEL OR PROPERTY IN ACTION  
IN REM.

Admiralty Jurisdiction.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

[*Title of Action.*]Order  
XXXIX.,  
Rule 64.

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, it was adjudged that the plaintiff in this action should recover the sum of £ \_\_\_\_\_ for (*follow the terms of the judgment, as in Form 396*) together with the costs of this action, which have been taxed and allowed at the sum of £ \_\_\_\_\_, and it was ordered that (*insert directions given by the Judge, as in Form 396*):

And whereas default has been made in payment according to the said order, and the Court has ordered the vessel [*or property*] to which this action relates to be taken and sold in execution, and has allowed to the plaintiff the costs of obtaining such order and suing out execution, which have been taxed and allowed at the sum of £ \_\_\_\_\_:

These are therefore to require you forthwith to seize and take in execution the (*state description and name of vessel or other property to which the action relates*) wheresoever the same may be found within the district of this Court, and to reduce into writing an inventory of the said \_\_\_\_\_;

And having chosen one or more experienced person or persons to cause him or them to appraise the same according to the true value thereof, and, upon a certificate of such value having been reduced into writing, to cause the said

to be sold by public auction for the highest price, not under the appraised value, that can be obtained for the same.

And you are further required, immediately upon the sale being completed, to pay the proceeds arising therefrom into Court, and to return this warrant with an account of the sale and of your fees thereon, and of the costs of the

appraisement, signed by you, together with the certificate of appraisement signed by the appraiser.

Given under the seal of the Court this                      day of                      19                      .

By the Court,

Registrar.

To the High Bailiff of the said Court, and others the bailiffs thereof.

	£	s.	d.
Amount for which judgment was obtained ... ..			
Costs taxed at ... ..			
Subsequent costs, allowed and taxed at ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed thereon.]			

Application was made to the Registrar for this warrant at                      minutes past the hour of                      in the                      noon of                      the                      day of                      19                      .

SEE BACK.

[Indorse on warrant the fees allowed for execution of a warrant of execution against vessel or property in action in rem.]

413. [332.]

ORDER FOR TRANSFER OF SALE TO HIGH COURT.

[Not to be printed.]

Admiralty Jurisdiction.

In the County Court of                      holden at                      .  
[Title of Action.]

Order  
XXXIX.,  
Rules 71, 72.

Whereas in an action commenced in this Court on behalf of A.B., of                      against [state name of Defendant] the Judge of this Court has ordered [here insert the terms of the order] :

And whereas the Plaintiff [or Defendant] in the said action is desirous that the sale of the vessel should be conducted in the Probate, Divorce, and Admiralty Division of the High Court of Justice, and has given security for the sum of ten pounds :

Now I, A.B., the Plaintiff [or C.D., the Defendant, or L.M., solicitor for the Plaintiff [or Defendant] ], pray that an order to transfer the proceedings for sale to the said Division of the High Court of Justice do issue.

Dated this                      day of                      19                      .

I hereby certify that the security above-mentioned has been duly completed.

Registrar.

I hereby order the transfer to be made as prayed.

Judge.

## 414. [337.]

## ADMIRALTY ACTIONS BOOK.

[Pro Formâ.]

Date.			
Day.	Month.	Year.	
10	Feb.	19 .	Action for damage by collision, instituted on behalf of <i>A.B.</i> , of                      against the schooner named "The Kate," lying at                      within the district of the Court, in the sum of 200 <i>l.</i> Solicitor for the Plaintiff, <i>Mr. L.M.</i> , of
10	Feb.	19 .	Application made for arrest ; affidavit filed ; warrant issued, the evidence being satisfactory. .
11	Feb.	19 .	Application for Judge's permission for action to be heard at
13	Feb.	19 .	Permission granted.
15	Feb.	19 .	Appearance entered by <i>R.S.</i> , of Solicitor for Defendant, <i>C.D.</i> , of
18	Mar.	19 .	The action having been heard the Court adjudged that [ <i>here set forth the judgment</i> ]. <i>If any further proceedings had, they should be entered in the same manner.</i>

## 415. [311B., Nov., 1900.]

## APPLICATION FOR ORDER DIRECTING STATEMENT OF CASE.

Order XL.,  
Rule 2.

The Agricultural Holdings (England) Acts, 1883 to 1900.

[*Not to be printed.*]

In the County Court of                      holden at                      .  
[*Reference Number*                      .]

In the matter of the Agricultural Holdings (England) Acts, 1883 to 1900,  
and

in the matter of an Arbitration between

*A.B.*,  
of &c.,

Tenant,

and

*C.D.*,  
of &c.,

Landlord.

Take notice, that application will be made to the Judge at  
on                      the                      day of                      19                      , at  
the hour of                      o'clock in the                      noon, on behalf of the above  
named                      , for an order directing  
Mr.                      , the arbitrator appointed in the  
above-mentioned arbitration, to state in the form of a special case for the opinion

of the Court the following question of law arising in the course of the arbitration, viz.,

[*State the question of law.*]

And further take notice, that an affidavit of  
filed herewith [*in the notice served on any party substitute for these words a*  
copy whereof is served herewith] will be read in support of the application.

Dated this                      day of                      19       .

(Signed)

Applicant.

[*or Applicant's Solicitor.*]

To the Registrar of the Court  
and to [*the other parties to the arbitration*  
*and the arbitrator, naming them.*]

---

416. [311c., Nov., 1900.]

Order XL.,  
Rule 3 (3).

NOTICE OF DAY ON WHICH CASE WILL BE HEARD.

The Agricultural Holdings (England) Acts, 1883 to 1900.

[*Not to be printed.*]

In the County Court of                      holden at                      .

[*Heading as in Special Case.*]

Take notice, that the Judge of this Court will hear the special case stated  
by Mr.                      the arbitrator appointed in the above-  
mentioned matter, at a court to be holden at                      on  
the                      day of                      19       , at the hour of                      in the  
noon ; and that if you do not attend in person or by your  
solicitor at the time and place above-mentioned, such order will be made and  
proceedings taken as the Judge may think just.

You may obtain a copy of the case upon application at my office, and upon  
prepayment of the costs of such copy.

Dated this                      day of                      19       .

Registrar.

To

[*the parties to the arbitration.*]

---

417. [311D., Nov., 1900.]

## ORDER ON HEARING OF CASE.

Order XL,  
Rule 3 (5).

The Agricultural Holdings (England) Acts, 1883 to 1900.

[*Not to be printed.*][*Heading as in Special Case.*]

The special case stated by Mr. \_\_\_\_\_, the arbitrator appointed in the above-mentioned matter [*if stated pursuant to an order of the Judge, add* in pursuance of an order of the Judge made in the above-mentioned matter on the \_\_\_\_\_, day of \_\_\_\_\_ 19\_\_\_\_] coming on for hearing this day :

Now, upon reading the said case, and upon hearing the above-mentioned A.B. \_\_\_\_\_ [or Mr. \_\_\_\_\_, solicitor [*or of counsel*] for the above-named A.B. \_\_\_\_\_] and the above-named C.D. \_\_\_\_\_ [or Mr. \_\_\_\_\_, solicitor [*or of counsel*] for the above-named C.D. \_\_\_\_\_] [*or if either party does not appear, no one appearing for the above-named A.B. \_\_\_\_\_ [or C.D. \_\_\_\_\_],* and upon debate of the matter, the Judge of this Court doth declare his opinion on the question of law stated for the opinion of the Court as follows :—

[*State opinion.*]

And it is ordered that a copy of this order be sent by the registrar to the said Mr. \_\_\_\_\_, for him to proceed in accordance with the opinion so declared as aforesaid.

[*Add directions as to costs, if any.*]

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Registrar.

To

[*the parties to the arbitration  
and the arbitrator.*]

418. [311E., Nov., 1900.]

## APPLICATION FOR REMOVAL OF ARBITRATOR OR TO SET ASIDE AWARD.

Order XL,  
Rule 4 (2)

The Agricultural Holdings (England) Acts, 1883 to 1900.

[*Not to be printed.*]

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_

No. of Plaintiff.

In the matter of the Agricultural Holdings (England) Acts, 1883 to 1900.

and

In the matter of an Arbitration between

A.B.,  
of &c.,

Tenant,

and

C.D.,  
of &c.,

Landlord.

Application is hereby made on behalf of the above-named

(1) for the removal of Mr. \_\_\_\_\_, the arbitrator appointed in the above-mentioned arbitration, on the ground of his misconduct.

Particulars are hereto appended [*or annexed*].

[*or* (2) to set aside the award made by Mr. \_\_\_\_\_, the arbitrator appointed in the above-mentioned arbitration, on the day of \_\_\_\_\_, or the ground of the misconduct of the said Mr. \_\_\_\_\_ [*or on the ground that the said arbitration [or award] was improperly procured*].]

Particulars are hereto appended [*or annexed*].

An affidavit of \_\_\_\_\_ in support of the application is filed herewith.

Application is hereby made to the Court to fix a day for the hearing of the said application.

The names and addresses of the applicant and his solicitor are :—

Of the applicant

Of his solicitor

The names and addresses of the respondents to be served with this application are

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

(Signed)

Applicant.

[*or Applicant's Solicitor*].

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419. [311F., Nov., 1900.]

Order XL,  
Rule 4 (7).

NOTICE TO APPLICANT OF DAY ON WHICH APPLICATION WILL BE HEARD.

The Agricultural Holdings (England) Acts, 1883 to 1900.

[*Not to be printed.*]

[*Heading as in Application.*]

Take notice, that the Judge of this Court will hear the application in this matter at [*state place of hearing*] on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Registrar.

To  
of

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## 420. [311G., Nov., 1900.]

NOTICE TO RESPONDENTS OF DAY ON WHICH APPLICATION WILL BE HEARD.

Order XL.,  
Rule 4 (7).

The Agricultural Holdings (England) Acts, 1883 to 1900.

[*Not to be printed.*][*Heading as in Application.*]

Take notice, that the Judge of this Court will hear the application a sealed copy of which, with the particulars thereunto appended [*or annexed*], and a sealed copy of an affidavit filed in support thereof, is served herewith at [*state place of hearing*] on the day of 19 , at the hour of in the noon ; and that if you do not attend either in person or by your solicitor at the time and place above-mentioned, such order will be made and proceedings taken as the Judge may think just and expedient.

Dated this day of 19 .

Registrar.

To  
of[*naming all the respondents.*]

## 421. [312B., Nov., 1900.]

APPLICATION FOR ORDER FOR RECOVERY OF MONEY AWARDED TO  
BE PAID.Order XL.,  
Rule 7 (1).[*Not to be printed.*]

The Agricultural Holdings (England) Acts, 1883 to 1900.

The Allotments and Cottage Gardens Compensation for Crops Act, 1887.

In the County Court of holden at ,  
[*Reference Number* .]

In the matter of the Agricultural Holdings (England) Acts, 1883 to 1900 [*or in the matter of the Allotments and Cottage Gardens Compensation for Crops Act, 1887*]

and  
In the matter of an Arbitration between

A.B.,  
of, &c.,

Tenant,

and

C.D.,  
of, &c.,

Landlord.

Take notice, that application will be made to the Judge at  
on the day of 19 , at the  
hour of in the noon, on behalf of the above-named

*A.B.* for an order that the sum of £ , being the total amount [*or the balance of the total amount*] of (1) a sum of £ which by an award made in the above-mentioned matter on the day of , 19 , was awarded to be paid by the above-named *C.D.* to the above-named *A.B.* , and of (2) a further sum of £ for costs which by the said award were awarded to be paid by the said *C.D.* to the said *A.B.* , and which costs were subsequently agreed upon [*or allowed on taxation*] at the sum of £ , and which said first-mentioned sum of £ remains unpaid, shall be recoverable as money ordered by the Court under its ordinary jurisdiction to be paid is recoverable ;

And further take notice, that an affidavit of filed herewith [*in the notice to be served on the opposite party, substitute for the words a copy whereof is served herewith*] will be read in support of the application.

Dated this day of 19 .

(Signed)

Applicant.

[*or Applicant's Solicitor.*]

To the Registrar of the Court,  
and to (*naming the party against whom  
the application is made.*)

422. [312C., Nov., 1900.]

Order XL.,  
Rule 7 (5).

# ORDER FOR RECOVERY OF MONEY AWARDED TO BE PAID.

[*Not to be printed.*]

The Agricultural Holdings (England) Acts, 1883 to 1900.

The Allotments and Cottage Gardens Compensation for Crops Act, 1887.

[*Title as in Application.*]

Upon the application of , and upon reading an award made in the above-mentioned matter on the day of 19 , and an affidavit of sworn on the day of of 19 , and filed on the day of 19 , and upon hearing [*the opposite party*] [*or if the opposite party does not appear and no one appearing for [the opposite party] though proof has been made of his having been duly served with notice of this application*] ;

It is ordered by the Judge of this Court that the above-named *A.B.* do recover from the above-named *C.D.* the sum of £ , being the total amount [*or the balance of the total amount*] of (1) a sum of £ which by the said award was awarded to be paid by the above-named *C.D.* to the above-named *A.B.* , and of (2) a further sum of £ for costs which by the said award were awarded to be paid by the said *C.D.* to the said *A.B.* , and which costs were subsequently agreed



upon [or allowed on taxation] at the sum of £ , and which said first-mentioned sum of £ remains unpaid, together with the sum of £ for the costs of this application ; and that in default of payment of the said sums of £ and £ by the said C.D. to the said A.B. within days from the date of this order, the said sums or so much thereof as shall remain unpaid shall be recoverable as money ordered by this Court under its ordinary jurisdiction to be paid is recoverable.

Dated this                      day of                      19 .

Registrar.

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423. [352, April, 1895.]

APPLICATION FOR TAXATION OF CHARGES OF RETURNING OFFICER.

[Not to be printed.]

In the County Court of                      holden at                      .

Order XLIII.,  
Rule 1.

In the matter of the Parliamentary Elections (Returning Officers) Act, 1875, [as applied by sub-section 19 of section 75 of the Local Government Act, 1888 (or as the case may be)] ; and

In the matter of an Election of a Member to serve in Parliament for the Division of the County of                      [or as the case may be].

Application is hereby made to the Court on behalf of [a person or the authority from whom payment is claimed] to tax the account of , the Returning Officer at the above-mentioned election, of the charges claimed by him in respect of such election, and to fix a place and time for such taxation, the Applicant [or Applicants] hereby submitting to pay to the said [Returning Officer] what shall be found to be due to him on the taxation of his said account.

Dated this                      day of                      19 .

Applicant  
or Clerk to the Applicants  
or Solicitor for the Applicants.

To the Registrar of the Court.

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424. [353, April, 1895.]

NOTICE OF PLACE AND TIME FIXED FOR TAXATION.

[Not to be printed.]

[Heading as in Form 423.]

Application having been made to the Court on behalf of to tax the account of , the Returning Officer at the above-mentioned election, of the charges claimed by him in respect of such election, and to fix a place and time for such taxation :

Order XLIII.,  
Rule 2.

Take notice, that the Court will proceed with such taxation at [place]  
on the day of , at  
the hour of in the noon :

And you the said [Applicant], and you the said [Returning Officer] are hereby respectively required to attend before the Court at the place and time above-mentioned, and to produce before the Court on oath all books, papers, and writings in your respective custody or power relating to the above-mentioned matter, and to be examined touching the said matter as the Court shall direct.

And further take notice, that if you or either of you do not attend, either in person or by your solicitor, at the place and time above-mentioned, such order will be made and such proceedings taken as to the Court shall seem just.

Dated this day of .

Registrar.

To [the Applicant]  
and to  
[ Returning Officer.]

425. [354, April, 1895.]

ORDER ON TAXATION.

[Not to be printed, but to be used as a precedent.]

[Heading as in Form 423.]

Order XLIII., Rule 7. It is this day adjudged and determined, on the taxation of the account of the charges claimed by , the Returning Officer at the above-mentioned election, in respect of such election, that the amount payable to the said in respect of such charges is the sum of £ :

Amount payable by Applicant. And it is adjudged that the said do recover the said sum of £ [or the sum of £ , being one part of the said sum of £ ] against [the Applicant] ;

Costs payable by Applicant. And it is further adjudged that the said [Returning Officer] do recover against the said [Applicant] the sum of £ for his costs of such taxation :

or costs payable by Returning Officer. [or that the said [Applicant] do recover against the said [Returning Officer] the sum of £ for his costs of such taxation] :

Court fees. And it is ordered that the Court fees amounting to £ payable in respect of this application be paid by [state by whom and in what proportion] :

Order for payment where Returning Officer allowed costs. And it is ordered that the said [Returning Officer] be at liberty to retain the sum of £ deposited with him by the said [Applicant] as security for his charges in respect of the said election [or advanced to him by the said [Applicant] on account of his charges in respect of the said election] in part payment of the said sums of £ and

£ , making together the sum of £ , which the said [Returning Officer] is entitled to recover against the said [Applicant], and that the said [Applicant] do on or before the day of pay the sum of £ , being the balance of the said sum of £ , to the Registrar of this Court for the use of the said [Returning Officer].

*[If no deposit made or no sum advanced, order payment by Applicant of the whole sum recoverable for charges and costs; if deposit or advance more than sufficient for payment of charges and costs, order payment of balance by Returning Officer to Registrar for use of Applicant.]*

[Or, And it is ordered that the said sum of £ for costs to be recovered by the said [Applicant] against the said [Returning Officer] be set off against the said sum of £ to be recovered by the said [Returning Officer] against the said [Applicant], and that the said [Returning Officer] be at liberty to retain the sum of £ , being the balance of the said sum of £ after allowing the said set-off, out of the sum of £ deposited with him by the said [Applicant] as security for his charges in respect of the said election, [or advanced to him by the said [Applicant] on account of his charges in respect of the said election], and that the said [Returning Officer] do on or before the day of pay the sum of £ , being the balance of the said deposit [or advance], to the Registrar of this Court for the use of the said [Applicant].

Order for set-off and payment of balance where Applicant allowed costs

*[If no deposit or advance made, or deposit or advance insufficient, order payment by Applicant to Registrar of sum or balance due to Returning Officer. If costs payable by Returning Officer exceed charges payable to him, order payment of balance and repayment of deposit or advance by Returning Officer to Registrar for use of Applicant.]*

Given under the seal of the Court this day of 19 .

By the Court,

Registrar.

To [the Applicant]  
and to  
[Returning Officer].

426. [355, April, 1895.]

# APPLICATION FOR EXAMINATION OF CLAIM TRANSMITTED TO RETURNING OFFICER.

*[Not to be printed.]*

*(Heading as in Form 423.)*

Application is hereby made to the Court on behalf of the Returning Officer at the above-mentioned election, to examine a claim for transmitted to him by A.B., of , pursuant to section 5 of the Parliamentary Elections (Returning Officers) Act, 1875, , Order XLIII., Rule 3.

[as applied by sub-section 19 of section 75 of the Local Government Act, 1888, (or as the case may be)], and to fix a place and time for such examination, the applicant hereby submitting to pay to the said A.B. what shall be found to be due to him on such examination.

Dated this                      day of

Returning Officer.

To the Registrar of the Court.

427. [356, April, 1895.]

NOTICE OF PLACE AND TIME FIXED FOR EXAMINATION OF CLAIM.

[*Not to be printed.*]

(Heading as in Form 423.)

Order XLIII., Application having been made to the Court on behalf of \_\_\_\_\_,  
Rule 4. the Returning Officer at the above-mentioned election, to examine a claim  
for \_\_\_\_\_ transmitted to him by A.B., \_\_\_\_\_, of  
\_\_\_\_\_, pursuant to section 5 of the Parliamentary Elections  
(Returning Officers) Act, 1875 [as applied by sub-section 19 of section 75 of  
the Local Government Act, 1888 (*or as the case may be*)], and to fix a place  
and time for such examination :

Take notice, that the Court will proceed with such examination at [place]  
on the day of at the  
hour of in the noon :

And you the said [*Returning Officer*], and you the said *A.B.*,  
are hereby respectively required to attend before the Court at the place and  
time above-mentioned, and to produce before the Court on oath all books,  
papers, and writings in your respective custody or power relating to the above-  
mentioned matter, and to be examined touching the said matter as the Court  
shall direct :

And further take notice, that if you or either of you do not attend, either in person or by your solicitor, at the place and time above-mentioned, such order will be made and such proceedings taken as to the Court shall seem just.

Dated this                      day of                      19                      .

Registrar.

To [the Returning Officer]  
and to  
[the person transmitting the claim].

428. [357, April, 1895.]

## ORDER ON EXAMINATION OF CLAIM.

[*Not to be printed, but to be used as a precedent.*]

(Heading as in Form 423.)

It is this day adjudged and determined, on the examination of a claim Order XLIII.,  
 for transmitted by A.B. , of , to , Rule 7.  
 the Returning Officer at the above-mentioned election, pursuant to section 5 of  
 the Parliamentary Elections (Returning Officers) Act, 1875, [as applied by sub-  
 section 19 of section 75 of the Local Government Act, 1888 (*or as the case  
 may be*)], that the said A.B. is entitled to recover the sum of against  
 the said [*Returning Officer*] in respect of the said claim :  
 [or that the said A.B. is not entitled to recover anything against the said  
 [*Returning Officer*] in respect of the said claim].

[*Order as to fees, costs, set-off, and payment of balance due from either party  
 to the Registrar for the use of the other party.*]

Given under the seal of the Court this                      day of                      19                      .

Registrar.

To [*the Returning Officer*]

and to

[*the person transmitting the claim*].

429. [New.]

CERTIFICATE UNDER 49 &amp; 50 VICT. C. 57. S. 1.

[*Not to be printed.*]

(Title as in Form 423.)

ORDER  
XLIII.,  
Rule 8.

I,                      Judge of the above-mentioned Court [*or I,*  
 Registrar of the above-mentioned Court, having been deputed by the Judge of  
 the said Court to exercise the powers of the Court under the above-mentioned  
 Act, do hereby, pursuant to section 1 of the Parliamentary Elections (Returning  
 Officers) Act, 1875, Amendment Act, 1886, certify that I have, on the application  
 of                      , taxed the account of                      , the Returning Officer at the  
 above-mentioned election, of the charges claimed by him in respect of such  
 election, and have allowed the same at the sum of £                      [*or that I have,*  
 on the application of                      , the Returning Officer at the above-  
 mentioned election, examined the claim transmitted to him by                      for  
 work [*or labour, materials, services, or expenses*] in respect of the contract  
 made with the said                      by the said [*Returning Officer*] for the  
 purpose of the said election, and have allowed such claim at the sum of  
 £                      ], and that the particulars of the items and amounts claimed, and of

the items and amounts allowed or disallowed, are set forth in the schedule hereunto annexed.

Dated this                      day of                      19       .

Judge [*or* Registrar]

SCHEDULE.

No. of Item.	Particulars.	Details of Items.	Amounts Claimed.	Amounts Allowed.	Amounts Disallowed.

430. [314.]

45 & 46 Vict.  
c. 31.  
Order XLV.,  
Rules 3, 4.

CERTIFICATE TO BE GIVEN BY A COUNTY COURT.

The Inferior Courts Judgments Extension Act, 1882.

I,                      , certify that [*here state name, business, or occupation, and address of person obtaining judgment, and whether Plaintiff or Defendant*] on the                      day of                      19       , obtained judgment against [*here state name, business or occupation, and address of person against whom judgment was obtained, and whether Plaintiff or Defendant*] in the County Court of                      holden at                      for payment of the sum of                      on account of [*here state shortly the nature of the claim, with the amount of costs (if any) for which judgment was obtained*] [*add, where the order was for payment by instalments, and it was thereupon ordered by the said Court that the said Defendant [or Plaintiff] should pay the same by instalments of                      for every                      days.*]

Dated this                      day of                      19       .

Registrar,

INDORSEMENT to be made on Certificate granted by a County Court.

No. of Plaintiff.

	£	s.	d.
Amount for which judgment was obtained ... ..			
Paid into court ... ..			
Remaining due on judgment ... ..			
Fee and costs for obtaining certificate of the judgment (45 & 46 Vict. c. 31. s. 4.).			
Total ... ..			

NOTE OF PRESENTATION to be appended to a Certificate sought to be registered in a County Court.

The above certificate is presented by me for registration in the County Court of \_\_\_\_\_ holden at \_\_\_\_\_, in accordance with the provisions of the Inferior Courts Judgments Extension Act, 1882.

*Here insert place, &c., in which the goods are.*

*Signature of Solicitor or Creditor.*

*Address.*

*Date.*

431. [315.]

# WARRANT OF EXECUTION.

The Inferior Courts Judgments Extension Act, 1882.

In the \_\_\_\_\_ County Court of \_\_\_\_\_ holden at \_\_\_\_\_.

Order XLV.,  
Rule 10.

Between

[*Address and description,\**]

Plaintiff,

\*As given in  
certificate.

and .

[*Address and description.\**]

Defendant,

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, the Plaintiff 45 & 46 Vict. c. 31.  
[or Defendant] obtained a judgment against the Defendant [or Plaintiff]  
in [*here set forth the Court mentioned in the certificate*], for payment of  
the sum of £ \_\_\_\_\_ for debt and costs [or damages and costs  
or for costs] [*add, where the certificate shows that judgment was to be paid  
by instalments, and it was thereupon ordered by the said Court that the  
Defendant [or Plaintiff] should pay the same by instalments of*  
for every \_\_\_\_\_ days] :

And whereas the said judgment has been duly registered in this Court.  
pursuant to the Inferior Courts Judgments Extension Act, 1882 :

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the Defendant [*or* Plaintiff], wheresoever they may be found within the district of this Court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the Plaintiff [*or* Defendant] under the said judgment, together with the costs of this execution; and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the Defendant [*or* Plaintiff] which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have so levied to the Registrar of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court this                      day of                      19 .

By the Court,

Registrar.

To the High Bailiff of the said Court, and others the bailiffs thereof.

	£	s.	d.
Amount for which judgment was obtained ... ..			
Paid as stated in certificate ... ..			
Costs for obtaining and registering certificate of the judgment (45 & 46 Vict. c. 31. s. 4.).			
Remaining due ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied [with fees for execution of warrant, as indorsed hereon].			

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the Debtor.

51 & 52 Vict.  
c. 43. s. 146.

Application was made to the Registrar for this warrant at                      minutes  
past                      the hour of                      in the                      noon of the  
day of                      19 .

*Here state for the information of the High Bailiff the place, &c., where the goods are stated to be.*

SEE BACK.

*For indorsement of fees for execution of warrant, see Form 163.*



The Employers and Workmen Act, 1875.

[Not to be printed.]

In the County Court of                      holden at  
Between  
*A.B.*,    Plaintiff,  
and  
*C.D.*,    Defendant.

Whereas it has been found by this Court, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, that the Defendant had broken the contract for the breach of which he was summoned :

And whereas the Court would have awarded to the Plaintiff the sum of £                    by way of damages suffered by him in consequence of such breach, and would have ordered the Defendant to have paid such sum, but that the Defendant was willing to give security for the performance by him of so much of the contract as remains unperformed :

Now, therefore, I, the undersigned Defendant, and we, the undersigned sureties [*or the undersigned surety*], do undertake that the said Defendant will perform so much of the said contract as remains unperformed, that is to say, [*here set out so much of the contract as remains to be performed*]:

And I, the said Defendant, and we [*or I*], the said sureties [*or surety*], hereby severally acknowledge ourselves bound to forfeit to *A.B.*, the Plaintiff, the sum of                      pounds and                      shillings, in case the said Defendant fails to perform what he has hereby undertaken to perform.

(Signed, *when not taken orally*)      C.D., Defendant.  
E.F., } Sureties.  
G.H., }

Taken [orally] before me this                      day of                      19 .

Registrar.

NOTE.—Where the undertaking is given orally, strike out the words “undersigned” where they occur, and insert the word “orally” after “taken.”

433. [316.]

## SUMMONS.

The Married Women's Property Act, 1882.

45 & 46 Vict.  
c. 75.  
Order XLVI,  
Rule 2.

You are hereby summoned at the instance of \_\_\_\_\_ of \_\_\_\_\_, to appear at a County Court to be holden at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, when the Court will proceed to consider the question stated in the particulars hereunto annexed, and to make an order with respect to the property in dispute.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

Registrar.

To \_\_\_\_\_,  
of \_\_\_\_\_.

434. [338.]

## SUMMONS.

[*Not to be printed.*]

Order  
XLVIII.,  
Rule 4.

The Charitable Trusts Acts, 1853 to 1887.

In the County Court of \_\_\_\_\_ holden at \_\_\_\_\_.

In the matter of [*title of Charity.*]

No. of Charity.

[*Name, description, and address of party to be summoned.*]

You are hereby summoned to appear at a County Court to be holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 , at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, upon the hearing of an application which has been made to the Court in the matter of the above Charity, by which it is suggested [*here state substance of order, certificate, or statement*].

And you are informed, that if you do not attend pursuant to the requisition of this summons, the Court may proceed in the matter in your absence, and make such order as may appear just therein.

And you are further informed, that if you do not obey such order, you will be liable to be imprisoned by order of the Court.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

Registrar.

435. [339.]

## NOTICE TO ATTEND PROCEEDINGS.

[*Not to be printed.*]

The Charitable Trusts Acts, 1853 to 1887.

Order  
XLVIII.,  
Rule 5.

In the County Court of                      holden at

In the matter of [*title of Charity*].

No. of Charity.

To [*Name, description and address of party to whom notice is to be given.*]  
Take notice, that the hearing of an application in the matter of the above  
Charity, by which it is suggested [*here state substance of order, certificate, or  
statement*], will take place on                      the                      day of  
19                      , at the above County Court, to be holden at                      ,  
at the                      hour of                      in the                      noon.

The object of this notice is that if you are desirous of attending the said  
hearing you are at liberty to do so, and you may be heard in support of any  
objection you have to such proceedings in respect of the above Charity.

But if you do not attend at the hearing, you will not be subject to any costs  
or penalty in respect of such non-attendance.

Dated this                      day of                      19                      .

Registrar.

436. [340.]

## NOTICE OF HEARING.

[*Not to be printed.*]

The Charitable Trusts Acts, 1853 to 1887.

16 & 17 Vict.  
c. 137.Order  
XLVIII.,  
Rule 7.

In the County Court of                      holden at

In the matter of [*title of Charity*].

No. of Charity.

To [*Name, description, and address of party to whom notice is to be given.*]  
Take notice, that the hearing of the application in the matter of the above  
Charity is appointed to take place at this Court on the                      .  
day of                      19                      ,\* at the hour of                      in the                      noon.

Dated this                      day of                      19                      .

Registrar.

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\* This should be at the earliest convenient sitting of the Court.

437. [341.]

16 & 17 Vict  
c. 137.Order  
XLVIII.,  
Rule 1.

## FORM OF CHARITABLE TRUSTS BOOK RECORD.

[*Not to be printed.*]

The Charitable Trusts Acts, 1853 to 1887.

ASHLEY, Lady, Charity of. In the matter of

No. 1.

On the                      day of                      19   , an order [*certificate or statement as the case may be*] was produced by [*state the party producing or transmitting it*], and the same has been numbered 1 [*or, as the case may be, according to the priority of production to the Registrar*].

On the                      day of                      19   , a summons [*or other process, as the case may be*] was issued and directed to be served by post [*or otherwise, as the case may be*] on [*state the parties*], requiring him [*her or them, as the case may be*] to appear at this Court on the                      day of 19   .

At a Court holden on the                      day of                      19   , appeared [*state parties appearing, or reasons for not appearing, and whether they appeared by counsel or otherwise. If any adjournment takes place, state the cause thereof, and adjournment, and until when adjourned; then on the adjournment day, proceed in a similar manner as on the first day of hearing; and the same on every successive adjournment day. When the matter is finally disposed of, then proceed*]

The matter having been heard, the Court made the following order : [*Here state the order. If any other proceedings, whether before or after the final order, are taken in the matter, they must be recorded in a similar manner in their proper places. It will not be necessary to set forth on the record any of the evidence, as that will appear on the Judge's notes; but any document produced, or any copy thereof, which the Judge requires to be filed, should be filed along with the other papers relating to the matter.*]

[*When the record of proceedings in any Charity occupies more than one page, the record may be continued on the next blank page, and a reference should be made from such previous page to such next page, and from such next page to such previous page. The book in which the record is kept should be paged throughout, and have an alphabetical index at the end. The names of the Charities should be arranged in the index alphabetically, and the numbers of the pages in which any proceedings are recorded should be given at the end of the names.*]

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438. [342.]

ORDER FOR REMOVAL OR APPOINTMENT OF A TRUSTEE, OR REMOVAL  
AND APPOINTMENT OF A TRUSTEE; VESTING THE ESTATES OF A CHARITY  
IN A TRUSTEE; AND APPROVING A SCHEME.

[Not to be printed.]

The Charitable Trusts Acts, 1853 to 1887.

16 & 17 Vict.  
c. 137, &c.

In the County Court of                      holden at

In the matter of [*title of Charity*].

No. of Charity.

Upon the application of [*name, description, and address of applicant*] to [*here state the substance of the application authorised by the order or certificate; but in the case of a scheme only refer to it as "a certain scheme for regulating "or directing the administration of the said Charity"*], and upon hearing the matter of the said application :

It is ordered that [name, description, and address] one of the trustees [or the trustee] of the above Charity be removed [or that [name, description, and address] be appointed a trustee of the said Charity] or that [name, description, and address] one of the trustees [or the trustee] of the said Charity be removed, and that [name, description, and address] be appointed a trustee instead of the said [name of removed trustee]:

And it is further ordered that [state property and rights of the Charity as described or indicated in the order or certificate] do vest in the said [names of trustees in whom the said property and rights are to vest]:

And it is further ordered that the scheme set forth in the schedule hereunto annexed for the regulating [*or directing*] the administration of the said Charity be approved and established.

Given under the seal of the Court this                      day of  
19 .

By the Court,

Registrar.

Schedule referred to in the foregoing order.

[Here insert scheme approved of.]

This is the schedule referred to in the above order.

[Registrar's signature.]

*\* \* Where the application to the Court does not embrace all the subjects of the above form, such part may be adopted as is applicable to the exigency of the case.*

[Not to be printed.]

**16 & 17-Vict.  
c. 137, s. 48.**

In the matter of [*title of Charity*].

Upon the application of [*name, description, and address of applicant*] to [*here state the substance of the application authorised by the order or certificate*] and upon hearing the matter of such application :

[Where any periodical or other payment is directed with respect to any copyhold land, add as to a periodical payment the following clause]: And it is further ordered, with the consent of the [name, description, and address of the Lord of the Manor wherein the estates are situated] that the sum of £ be paid by [name, description, and address of person ordered to pay] to the said Lord of the Manor of on the day of next, and on the same day in each succeeding year [as the case may be], in compensation for fines or other profits which would have become due upon the death or admittance of the tenants of such land, being part of the said manor holden upon trust for the said Charity.

By the Court,

Registrar.

440. [344.]

[*Not to be printed.*]

16 & 17 Vict.  
c 137. s. 51.

In the matter of [title of Charity].

Upon the application of [name, description, and address of applicant] to [here state the substance of the application authorised by the order or certificate], and upon hearing the matter of the said application :

It is ordered that [names, descriptions, and addresses] [where they are personal representatives, insert "the executors [or administrators] of [name, description, and address] deceased "] do transfer the £ Bank

£2 15s. per Cent. Annuities, [*or* Bank Stock, promissory note, bill of exchange, bond, debenture, *or* other security [*as the case may be*], standing in the name [*or* names] [*insert the names, descriptions, and addresses of the persons in whose names the stock is standing*], into the names of [*names of Official Trustees*].

[Where securities are to be deposited, vary the preceding order, commencing with the words “do transfer,” and substitute the following: “do deposit the following Exchequer bills, dated, that is to say, No. 1,806 for £500, No. 772 for £50, &c., or any other Exchequer bills, for which the same may be exchanged [*as the case may be*] with [*names of Official Trustees*].]

Given under the seal of the Court this                      day of  
19                      .

By the Court,

Registrar.

#### 441. [345.]

### ORDER FOR PAYMENT OF MONEY BY TRUSTEE OF A CHARITY OR PERSON HOLDING MONEY BELONGING TO A CHARITY.

[*Not to be printed.*]

The Charitable Trusts Acts, 1853 to 1887.

16 & 17 Vict,  
c. 137.

In the County Court of                      holden at                      .

In the matter of [*title of Charity*].

No. of Charity.

Upon the application of [*name, description, and address of applicant*] to [*here state the substance of the application authorised by the order or certificate*], and upon hearing the matter of the said application:

It is ordered that [*name, description, and address*] do on or before the  
day of                      19                      , pay the sum of £  
[*with interest thereon (if any)*] to [*state party or account*].

Given under the seal of the Court this                      day of                      ,  
19                      .

By the Court,

Registrar.

#### 442. [346.]

### NOTICE OF SURETIES.

[*Not to be printed.*]

The Charitable Trusts Acts, 1853 to 1887.

16 & 17 Vict.  
c. 137.

In the County Court of                      holden at                      .

In the matter of [*title of Charity*].

Take notice, that the sureties whom I propose as my sureties on the appeal in the above matter are [*here state the full names and additions of the sureties*,

*whether householders or freeholders, and their residences for the last six months, therein mentioning the county or city, places, streets, and numbers, if any].*

---

BOND.

Know all men by these presents that we [*name, description, and address*], and [*names, descriptions, and addresses*], are jointly and severally bound to [*name, description, and address of obligee*] in £ \_\_\_\_\_ of good and lawful money of Great Britain, to be paid to the said [*name of obligee*] or his certain attorney, executors, administrators, or assigns. For which payment to be made we bind ourselves and each (and every) of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals, and dated this \_\_\_\_\_ day of \_\_\_\_\_ one thousand nine hundred and \_\_\_\_\_ .

Whereas an order, dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, was made in the matter of [*name*] Charity by the County Court of \_\_\_\_\_ holden at \_\_\_\_\_, and [*name, description, and address of Appellant*] states himself to be aggrieved by [*or dissatisfied with*] the said order, and has given notice of appeal pursuant to the Charitable Trusts Act, 1853, and the practice of the Court :

And whereas the Charity Commissioners of England and Wales have required that the said [*Appellant*] should, together with two sufficient sureties, become bound to [*person whom the Commissioners direct to be obligee*] in the sum of £ \_\_\_\_\_ to pay such costs of the proceedings on the appeal as shall be ordered to be paid by the said Appellant [*if required by the Commissioners*], and also to indemnify the Charity against the costs and expenses of and attending such appeal] :

And whereas the above-named [*names, descriptions, and addresses of sureties*], at the request of the said [*name of Appellant*], have agreed to enter into the above written obligation for the purpose aforesaid, and the security intended to be given has been approved of by \_\_\_\_\_, the Registrar of the said Court, as appears by his allowance in the margin hereof :

I approve of  
this bond.  
(L.S.) J.K.  
*This requires  
a stamp.*

Now the condition of this obligation is such, that if the above bounden [*names*], or any or either of them, shall pay unto the said [*name of the obligee*], his executors, administrators, or assigns, the costs of the said appeal, as the said Court of Appeal shall order [*add, if so ordered*], and indemnify the said Charity against the costs or expenses of or attending such appeal], then this obligation shall be void, otherwise the same shall remain in full force and virtue.

A.B. (L.S.)

C.D. (L.S.)

E.F. (L.S.)

Signed, sealed, and delivered by the above bounden, in the presence  
of \_\_\_\_\_ .

---



443. [349A., Nov., 1900.]

## NOTICE TO PROBATE DISTRICT REGISTRAR.

[*Not to be printed.*]

The Court of Probate Acts, 1857 and 1858.

Order XLIX.,  
Rule 7.

In the County Court

holden at

Between

A.B.,

Plaintiff,

and

C.D.,

Defendant.

Whereas an application has been made to this Court to revoke the grant of probate of the will [*or* letters of administration granted by you in the goods] of [*here insert the name and address of the testator or intestate*] ;

And whereas the matter of such application will be considered by this Court on the            day of            at the hour of            in the            noon :

I therefore request that you will cause to be produced before the Court on that day [the will \*and] all documents which are in your possession relating to the matter.

\* To be left out where administration without will annexed has been granted.

Dated this            day of            19   .

Registrar.

444. [350A., Nov., 1900.]

## CERTIFICATE OF REGISTRAR.

[*Not to be printed.*]Order XLIX.  
Rule 8.

The Court of Probate Acts, 1857 and 1858.

[*Heading as in Form 443.*]

I, A.B., Registrar of the above Court, do hereby certify that the following order was made in the above action on the            day of            19   .

[*Here set out the Order.*]

Certified under the seal of the Court this            day of            19   .

Registrar.

445. [351A., Nov., 1900.]

## ORDER IN PROBATE ACTION.

[*Not to be printed.*]Order XLIX,  
Rule 9.

The Court of Probate Acts, 1857 and 1858.

[*Heading as in Form 443.*]

Upon the trial of this action at a Court holden this day, it is adjudged as follows :

[*Here set out the Order.*]

and it is ordered, that the                      do pay the sum of                      for the                      's  
costs, and that the same be paid to the Registrar of this Court on the  
day of                      19                      .

Given under the seal of the Court this                      day of                      19                      .

By the Court,

Registrar.

446. [337A., Dec. 1889.]

## SUMMONS ON APPEAL UNDER THE MERCHANT SHIPPING ACT, 1894, s. 610.

[*Not to be printed.*]

The Merchant Shipping Act, 1894, s. 610.

Order L.,  
Rule 23.In the [*title of Court issuing summons*].

No. of Plaintiff.

Between

A.B.,  
[*address, description*]

Appellant,

and

[*insert description of Pilotage Authority*]

Respondents.

You are hereby summoned to appear at a County Court to be holden at  
on the                      day of                      19                      , at the hour of                      in the  
noon, to show cause why the decision, a copy of which is hereunto annexed,  
should not be reversed or modified, on the grounds set forth in the statement  
hereunto annexed.

Dated this                      day of                      19                      .

Registrar.

To the Respondents.

## 447. [New.]

## NOTICE TO PARTIES OF NAME OF ASSESSOR SELECTED BY JUDGE.

[*Not to be printed.*][*Heading as in Form 446.*]

Take notice, that His Honour the Judge has selected Mr.  
of as an assessor to assist him in trying this appeal.

Order L.,  
Rule 26.

Should you have any objection to the assessor so selected, you must forthwith send me in writing your reasons for your objection, and must mention the name of any other assessor whom you are willing should be summoned.

Should you have no objection to the assessor named being summoned, you must forthwith sign this notice and return it to me.

Dated this                      day of                      19                      .

Registrar.

To [*the Appellant*]  
and [*the Respondents.*]

The Appellant [*or Respondents*] has [*or have*] no objection to make to the above assessor being summoned.

(Signature.)

## 448. [337B., Dec. 1889.]

ORDER CONFIRMING, REVERSING, OR MODIFYING DECISION OF PILOTAGE  
AUTHORITY.[*Not to be printed.*]

The Merchant Shipping Act, 1894. s. 610.

[*Heading as in Form 446.*]

It is this day ordered that the decision of the [*here set forth the title of the pilotage authority and the decision given by it*] shall be confirmed [*or as the case may be*].

And it is further ordered, that the Appellant [*or Respondents*] do pay the costs of the Respondents [*or Appellant*] of this appeal, such costs to be taxed by the Registrar under column                      of the Scales of Costs in force in the County Courts, and to be paid by the Appellant [*or Respondents*] to the Registrar of this Court within fourteen days from the date of the certificate of taxation.

Dated this                      day of                      19                      .

Registrar.

To [*the Appellant*]  
and [*the Respondents.*]



APPENDIX

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PART II.

---

FORMS OF BOOKS REFERRED TO IN ORDER II.

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**BOOK A.—ORDINARY AND DEFAULT**  
**Plaints, Minutes of Judgments, Orders,**

Date of entry of Plaintiff, &c., or Counter-claim.	Number of Plaintiff, &c., or Counter-claim.			Name, Residence, and Trade of		Miles from Court House.	Particulars of Debt or Claim.	Amount claimed, or value of subject matter.		Fee on entering Plaintiff, &c.	Fees. Sched. B. (Part 1).			Amount paid into Court before Judgment.	No. of Plaintiff, &c., (repeated).
	Ordinary Summons No.	Default Summons.		Plaintiff.	Defendant.			Debt or Claim.	Solicitor's Costs charged on the Summons.		Registrar.	Home Bailiff.	Foreign Bailiff.		
		No.	By whom served.												
								£ s. d.	£ s. d.	£ s.	s.	s.	s.	£ s. d.	

**BOOK B.—ORDINARY**  
**Plaints, Minutes of Judgments, Orders,**  
**at a Court holden at                      on the                      day**

Name, &c. of Plaintiff's Solicitor.	Date of entry of Plaintiff, &c., or Counter-claim.	No. of Plaintiff, &c.	Name, Residence, and Trade of		Miles from Court House.	Particulars of Debt or Claim.	Amount claimed or value of subject matter.		Fee on entering Plaintiff, &c.	Regrs. Fees. — Sched. "B." (Part 1).	No. of Plaintiff, &c. (repeated).
			Plaintiff.	Defendant.			Debt or Claim.	Solicitor's Costs charged on the Summons.			
							£ s. d.	£ s. d.	£ s.	£ s.	

**BOOK C.—DEFAULT**  
**Plaints, Minutes of Judgments,**

Name, &c. of Plaintiff's Solicitor.	Date of entry of Plaintiff, &c., or Counter-claim.	Default Summonses.		Name, Residence, and Trade of		Miles from Court House.	Particulars of Debt or Claim.	Amount claimed.		Fee on entering Plaintiff.	Fees. Schedule "B." (Part 1).		
		No. of Plaintiff.	By whom served.	Plaintiff.	Defendant.			Debt or Claim.	Solicitor's Costs charged on the Summons.		Registrar.	High Bailiff, Home Court.	High Bailiff, Foreign Court.
								£ s. d.	£ s. d.	£ s.	s.	s.	s.

## SUMMONSES, &amp;c.

and other Incidental Proceedings.

Date fixed for Hearing.	Nature of Defence. — Date when Notice of Defence or Leave to Defend filed.	By whom Jury required.	Appearance.		Folio in Ledger.	Amount of Judgment.			For whom Judgment given.	Order.	Date when Default Summons served.	Dates of entering up Judgment by Default.  of filing Order in nature of Decree.  of filing Order on Interlocutory Proceedings.	Fees on		Name, &c. of Plaintiff's Solicitor.
			Plaintiff.	Defendant.		Debt or Claim.	Solicitor's Costs, Witnesses, &c.	Total Costs.					Hearing.	Consent or Admission.	
						£ s. d.	£ s. d.	£ s. d.					£ s.	£ s.	

## SUMMONSES.

and other Incidental Proceedings.

of 19 , before His Honour

Judge of the said Court.

Amount paid into Court before Judgment.	Nature of Defence. — Date when Notice of Defence or Leave to Defend filed.	By whom Jury required.	Appearance.		Folio in Ledger.	Amount of Judgment.			For whom Judgment given.	Order.	Date when Order in nature of Decree, or on Interlocutory Proceedings, filed.	Fees on	
			Plaintiff.	Defendant.		Debt or Claim.	Solicitor's Costs, Witnesses, &c.	Total Costs.				Hearing.	Consent or Admission.
£ s. d.						£ s. d.	£ s. d.	£ s. d.				£ s.	£ s.

## SUMMONSES.

and other Incidental Proceedings.

Amount paid into Court before Judgment.	Date fixed for Hearing.	Nature of Defence. — Date when Notice of Defence or Leave to Defend filed.	By whom Jury required.	Folio in Ledger.	Amount of Judgment.			Order.	Date when Summons served.	Date of entering up Judgment by Default.	No. of Plaintiff, &c. (repeated).
					Debt or Claim.	Solicitor's Costs.	Total Costs.				
£ s. d.					£ s. d.	£ s. d.	£ s. d.				

Plaints for Summonses, returnable at a Court to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, and Minutes of Interlocutory Proceedings thereon.

Date.	Num-ber.	Plaintiff.	Residence.	Trade.	Defendant.	Residence.	Number of Miles of De-fendant's Residence from Court House.	Trade.	Particulars of Debt or Claim.	Amount claimed.	Amount paid into Court before Judgment.	Notice of Defence.		Fee on entering Plaintiff.	Name, &c., of Plaintiff's Solicitor.
												Nature of Defence.			
	1									£ s. d.	£ s. d.			£ s.	
	2														
	3														
	4														
	5														
	6														
	7														
These additions to be carried to Summary at end of each month.†															

† These additions will facilitate the making of statistical returns to Parliament.







at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before His Honour \_\_\_\_\_ Judge of the said Court.

Date.	No. of		Plaintiff or Claimant.	Defendant or Execution Creditor.		Miles from Court House.	Date when Judgment or Order obtained.	Amount of Judgment or Order.		Costs of subsequent Proceedings.	Paid into Court.		Amount not required to have been paid at date of issue of Summons.	Amount for which Summons is issued.		Fee for issuing Summons.	Ledger Folio.	Cost of this Summons and Hearing.	Appearance by		Order.	Fee for Hearing.
	Plaint.	Commitment Summons.		Name.	Residence and Trade.			Debt.	Costs.		Debt.	Costs.		Plaintiff.	Defendant.							
								£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		£ s. d.				£ s. d.

BOOK J.—SUMMONSES TO WITNESSES AND JURORS,

returnable at a Court to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Date.	No. of Plaint.	On whose behalf ap- plied for.	Witness or Juror.			Miles from Court House.	By whom served.	Fee on Summons to Witness.			Conduct Money, or Fee for Jury.
			Name.	Residence.	Trade.			Home District.	Foreign Districts.	Mileage.	
								£ s. d.	£ s. d.	£ s. d.	£ s. d.





## BOOK L.—EXECUTION AND COMMITMENT BOOK (WHERE HIGH BAILIFF IS NOT REGISTRAR).

No. of Plaint.	No. of Warrant.	Day and Hour on which warrant was applied for.	Plaintiff.	Defendant.	Residence.	Miles from Court.	Execution or Commit- ment.	When issued.	Amount of Debt or Damages, and Costs due.	Poundage for issuing Warrant.	RETURN.		
											Amount paid into Court, or certified as paid into Foreign Court.	Date of Arrest or Levy.	Minute of other Return than payment or Arrest, and Date of every Return.
		Day.	Hour. h. m.						£ s. d.	£ s. d.	£ s. d.		

# BOOK M.—FOREIGN EXECUTION AND COMMITMENT CASH BOOK

On the Debtor side of which the Registrar will enter all sums paid to him on warrants issued from other Courts and executed in his district, and certified by him to such Courts. On the Creditor side he will enter all sums on warrants certified to him as having been received in Foreign Courts on warrants sent thereto.

Debtor.

Creditor.

WARRANTS RECEIVED FOR EXECUTION.					WARRANTS SENT FOR EXECUTION.						
Date.	No. of Execution.	No. of Plaintiff.	Name of Issuing Court.	Amount received and certified to Issuing Court.	Date.	No. of Execution.	No. of Plaintiff.	Name of Foreign Court.	Folio in Home Cash Book.	Amount certified by Registrar of Foreign Court.	Folio in Ledger.
				£   s.   d.						£   s.   d.	

19 , received of Treasurer, at audit  
Audited this                      day of                      19 .  
C.D., Treasurer.

\* N.B.—The sums received on executions issued from another Court into this District, not being applicable to any account in the Books of this Court, must not be entered in the ordinary Cash Book ; but the Registrar must here debit himself with the receipt of them.  
† N.B.—Upon the receipt of a certificate of a payment from the Foreign Court, the Registrar of the Home Court must treat the certificate as cash, and debit himself in his ordinary Cash Book with the amount and post it into the Ledger to the Plaintiff's credit. The sums on the Creditor side of this book are payable to him by the Treasurer.

BOOK N.—FOREIGN EXECUTIONS RE-ISSUED BOOK.

Date of Issue.	From what Court.	No. of Plaint.	No. of Execution.	Date of Re-issue.	Against whom.	Residence.	Miles from Court.	Execution or Commitment.	Total Amount to be levied.	Particulars of Return.	Mileage.	
											Levy.	Taking to Gaol.

BOOK O.—CASH BOOK.

Debtor.				Contra.				Creditor.			
Date.	No. of Plaint.	From whom received.	For whom paid.	Folio in Ledger.	Amount.	Date.	No. of Plaint.	To whom paid.	From whom received.	Folio in Ledger.	Amount.

N.B.—This Book may be divided into two, one for receipts and the other for payments, where the extent of business in the Court may make it convenient that it should be.



## BOOK P.—LEDGER.

No. of Plaintiff . v							
		Receipts.	Folio in Cash Book.		Payments.	Folio in Cash Book.	By whom received.
Amount adjudged							[Each payment to be signed by the person receiving the money, either in this Book or the Cash Book, and a receipt stamp affixed where the sum paid is 2 <i>l</i> . or up- wards.]
Costs paid by Plaintiff.							
Allowance to Barrister or Solicitor.							
Ditto to Witnesses							
£							
Execution - - No.							

No. of Plaintiff . v							
		Receipts.	Folio in Cash Book.		Payments.	Folio in Cash Book.	By whom received.
Amount adjudged							[Each payment to be signed by the person receiving the money, either in this Book or the Cash Book, and a receipt stamp affixed where the sum paid is 2 <i>l</i> . or up- wards.]
Costs paid by Plaintiff.							
Allowance to Barrister or Solicitor.							
Ditto to Witnesses							
£							
Execution - - No.							

No. of Plaintiff . v							
		Receipts.	Folio in Cash Book.		Payments.	Folio in Cash Book.	By whom received.
Amount adjudged							[Each payment to be signed by the person receiving the money, either in this Book or the Cash Book, and a receipt stamp affixed where the sum paid is 2 <i>l</i> . or up- wards.]
Costs paid by Plaintiff.							
Allowance to Barrister or Solicitor.							
Ditto to Witnesses							
£							
Execution - - No.							

BOOK Q.—NOTICE BOOK.

No. of Plaint.	To whom addressed.		Date of Notice.	When posted.	Where posted.	By whom posted.	Observations.
	Name.	Address.					

BOOK R.

IN the County Court of                      holden at                      .  
High Bailiff's Return of Summonses on Plaints before Judgment, issued to him returnable  
at a Court to be holden on the                      day of                      , 19                      .

No. of Plaint.	Plaintiff.	Defendant.	Mode of Service.

Dated this                      day of                      19                      .  
A.B.,  
High Bailiff.

## BOOK S.—ORDER BOOK.

BOOK T.—HIGH BAILIFF'S WARRANT BOOK.

For entry of what has been done under Process of Execution or Commitment, whether Home or Foreign, where High Bailiff is not Registrar.

No of Plaint.	When posted.	Where posted.	By whom posted.	Observations.
			.	

[illegible]

*Instructions where Books A., B., or C. are used.*

The summaries of fees are to be made up for each month as heretofore.

Registrars' and high bailiffs' fees under Schedule B., upon any proceedings in an action subsequent to the entry of the plaint, and upon all proceedings in chambers, must be entered in the Schedule B. fee book.

When a successive summons is applied for, the case must be re-entered in detail (in red ink), under the original plaint number, and the subsequent proceedings recorded on the page of the book in use on the day it was re-issued; and a reference thereto made opposite the original entry of the plaint.

*Where either Book A. or Book B. is used.*

A fresh page should be commenced with the entry of plaints for each Court, and sufficient space be left after such entries for cases requiring to be brought forward for hearing, viz.: adjournments, new trials, default cases when defended, applications, &c., and for the summary of fees.

Proceedings in chambers may be recorded at the end of the book.

*Where either Book A. or Book C. is used.*

The fee for entering up a judgment by default must be entered on the day it is received, with the number of the plaint prefixed, in the Book F. provided for the purpose.

*Where Book C. is used.*

The default plaints should be numbered consecutively, and, to distinguish them from ordinary summonses, a cypher should be prefixed to each number, thus, D, 01 ; D, 02 ; D, 03 ; &c.

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# APPENDIX,

## PART III.

(1.)

### STATUTORY PROVISIONS AS TO SERVICE OF SUMMONSES ON COMPANIES.

#### The Companies Clauses Consolidation Act, 1845.

[8 &amp; 9 Vict., c. 16.]

*Sect. 135.*—Any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the company, may be served by the same being left at or transmitted through the post directed to the principal office of the company, or one of their principal offices where there shall be more than one, or being given personally to the secretary, or in case there be no secretary then by being given to any one director of the company. 8 & 9 Vict.,  
c. 16.

#### The Lands Clauses Consolidation Act, 1845.

[8 &amp; 9 Vict., c. 18.]

*Sect. 134.*—Any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the promoters of the undertaking, may be served by the same being left at or transmitted through the post directed to the principal office of the promoters of the undertaking, or one of the principal offices where there shall be more than one, or being given or transmitted through the post directed to the secretary, or, in case there be no secretary, the solicitor of the said promoters. 8 & 9 Vict.,  
c. 18.

#### The Railway Clauses Consolidation Act, 1845.

[8 &amp; 9 Vict., c. 20.]

*Sect. 138.*—This section is identical in terms with 8 & 9 Vict. c. 16, s. 135, *supra*. 8 & 9 Vict.,  
c. 20.

#### The Companies Act, 1862.

[25 &amp; 26 Vict., c. 89.]

*Sect. 62.*—Any summons, notice, order or other document required to be served upon the company, may be served by leaving the same, or sending it through the post in a prepaid letter addressed to the company at their registered office. 25 & 26 Vict.,  
c. 89.

*Sect. 63.*—Any document to be served by post on the company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and in proving service of such document it shall be sufficient to prove that such document was properly directed, and that it was put as a prepaid letter into the post office.

(2.)

PROVISIONS OF THE SUMMARY JURISDICTION ACTS AS TO IMPRISONMENT  
IN DEFAULT OR IN LIEU OF DISTRESS TO SATISFY SUMS ADJUDGED TO  
BE PAID ON SUMMARY CONVICTION.

11 & 12 Vict.,  
c. 43.

THE SUMMARY JURISDICTION ACT, 1848.

[11 & 12 Vict., c. 43.]

Power to  
justice to  
award costs,  
which shall  
be specified  
in conviction  
or order of  
dismissal,  
and may be  
recovered by  
distress.

18. In all cases of summary conviction or of orders made by a justice or justices of the peace it shall be lawful for the justice or justices making the same, in his or their discretion, to award and order in and by such conviction or order that the defendant shall pay to the prosecutor or complainant respectively such costs as to such justice or justices shall seem just and reasonable in that behalf; and in cases where such justice or justices, instead of convicting or making an order as aforesaid, shall dismiss the information or complaint, it shall be lawful for him or them, in his or their discretion, in and by his or their order of dismissal, to award and order that the prosecutor or complainant respectively shall pay to the defendant such costs as to such justice or justices shall seem just and reasonable, and the sums so allowed for costs shall in all cases be specified in such conviction or order or order of dismissal aforesaid, and the same shall be recoverable in the same manner and under the same warrants as any penalty or sum of money adjudged to be paid in and by such conviction or order is to be recoverable; and in cases where there is no such penalty or sum to be thereby recovered then such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of such distress by imprisonment, with or without hard labour, for any time not exceeding one calendar month, unless such costs shall be sooner paid.

Power to  
justice to  
issue warrant  
of distress.

19. Where a conviction adjudges a pecuniary penalty or compensation to be paid, or where an order requires the payment of a sum of money, and by the statute authorising such conviction or order such penalty, compensation, or sum of money is to be levied upon the goods and chattels of the defendant by distress and sale thereof, and also in cases where by the statute in that behalf no mode of raising or levying such penalty, compensation, or sum of money, or of enforcing the payment of the same, is stated or provided, it shall be lawful for the justice or justices making such conviction or order, or for any justice of the peace for the same county, riding, division, liberty, city, borough, or place, to issue his or their warrant of distress for the purpose of levying the same, which said warrant of distress shall be in writing under the hand and seal of the justice making the same; and if after delivery of such warrant of distress to the constable or constables to whom the same shall have been directed to be executed sufficient distress shall not be found within the limits of the jurisdiction of the justice granting such warrant, then, upon proof alone being made on oath of the handwriting of the justice granting such warrant before any justice of any other county or place, such justice of such other county or place shall thereupon make an indorsement on such warrant, signed with his hand, authorising the execution of such warrant within the limits of his jurisdiction, by virtue of which said warrant and indorsement the penalty or sum aforesaid, and costs, or so much thereof as may not have been before levied or paid, shall and may be levied by the person bringing such warrant, or by the person or persons to whom such

How warrant  
to be backed.

warrant was originally directed, or by any constable or other peace officer of such last-mentioned county or place, by distress and sale of the goods and chattels of the defendant in such other county or place :

21. If at the time and place appointed for the return of any such warrant of distress the constable who shall have had the execution of the same shall return that he could find no goods or chattels or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of or occasioned by the levying of the same, it shall be lawful for the justice of the peace before whom the same shall be returned to issue his warrant of commitment under his hand and seal, directed to the same or any other constable, reciting the conviction or order shortly, the issuing of the warrant of distress, and the return thereto, and requiring such constable to convey such defendant to the house of correction, or if there be no house of correction then to the common gaol of the county, riding, division, liberty, city, borough, or place for which such justice shall then be acting, and there to deliver him to the keeper thereof, and requiring such keeper to receive the defendant into such house of correction or gaol, and there to imprison him, or to imprison him and keep him to hard labour, in such manner and for such time as shall have been directed and appointed by the statute on which the conviction or order mentioned in such warrant of distress was founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the defendant to prison, if such justice shall think fit so to order (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

In default of sufficiency of distress, justice may commit defendant to prison.

22. And whereas by some Acts of Parliament justices of the peace are authorised to issue warrants of distress to levy penalties or other sums recovered before them by distress and sale of the offender's goods, but no further remedy is thereby provided in case no sufficient distress be found whereon to levy such penalties ; in all such cases, and in all cases of convictions or orders where the statute on which the same are respectively founded provides no remedy in case it shall be returned to a warrant of distress thereon that no sufficient goods of the party against whom such warrant shall have been issued can be found, it shall nevertheless be lawful for the justice to whom such return is made, or to any other justice of the peace for the same county, riding, division, liberty, city, borough, or place, if he or they shall think fit, by his warrant as aforesaid, to commit the defendant to the house of correction or common gaol as aforesaid for any term not exceeding three calendar months, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and of the commitment and conveying of the defendant to prison (the amount thereof being ascertained and stated in such commitment), shall be sooner paid.

In all cases of penalties, convictions, orders, where the statute provides no remedy in default of distress, justice may commit defendant to prison.

23. In all cases where any person against whom a warrant of distress shall issue as aforesaid shall pay or tender to the constable having the execution of the same the sum or sums in such warrant mentioned, together with the amount of the expenses of such distress up to the time of such payment or tender, such constable shall cease to execute the same ; and in all cases in which any person shall be imprisoned as aforesaid for non-payment of any penalty or other sum

On payment of penalty, &c., distress not to be levied, or the party, if imprisoned for non-payment, shall be discharged.

he may pay or cause to be paid to the keeper of the prison in which he shall be so imprisoned the sum in the warrant of commitment mentioned, together with the amount of the costs, charges, and expenses (if any) therein also mentioned, and the said keeper shall receive the same, and shall thereupon discharge such person, if he be in his custody for no other matter.

### THE SUMMARY JURISDICTION ACT, 1879.

[42 & 43 Vict. c. 49.]

42 & 43 Vict.,  
c. 49.  
Scale of im-  
prisonment  
for non-  
payment of  
money.

5. The period of imprisonment imposed by a court of summary jurisdiction under this Act or under any other Act, whether past or future, in respect of the non-payment of any sum of money adjudged to be paid by a conviction, or in respect of the default of a sufficient distress to satisfy any such sum, shall, notwithstanding any enactment to the contrary in any past Act, be such period as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case the maximum fixed by the following scale; that is to say,

Where the amount of the sum or sums of money adjudged to be paid by a conviction, as ascertained by the conviction,	The said period shall not exceed.
Does not exceed ten shillings ... ..	Seven days.
Exceeds ten shillings but does not exceed one pound ...	Fourteen days.
Exceeds one pound but does not exceed five pounds ...	One month.
Exceeds five pounds but does not exceed twenty pounds	Two months.
Exceeds twenty pounds ... ..	Three months.

And such imprisonment shall be without hard labour, except where hard labour is authorised by the Act on which the conviction is founded, in which case the imprisonment may, if the court thinks the justice of the case requires it, be with hard labour, so that the term of hard labour awarded do not exceed the term authorised by the said Act.

Special pro-  
visions as to  
warrants of  
commitment  
for non-  
payment of  
sums of  
money, and  
as to  
warrants of  
distress.

21. (1.) A court of summary jurisdiction to whom application is made either to issue a warrant of distress for any sum adjudged to be paid by a conviction or order, or to issue a warrant for committing a person to prison for non-payment of a sum of money adjudged to be paid by a conviction, or in the case of a sum not a civil debt by an order, or for default of sufficient distress to satisfy any such sum, may, if the court deem it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to the court may seem just.

(2.) The wearing apparel and bedding of a person and his family, and, to the value of five pounds, the tools and implements of his trade, shall not be taken under a distress issued by a court of summary jurisdiction.

(3.) Where a person is adjudged by the conviction of a court of summary jurisdiction, or in the case of a sum not a civil debt by an order of such court, to pay any sum of money, and on default of payment of such sum a warrant of distress is authorised to be issued, and it appears to the court of summary jurisdiction to whom application is made to issue such warrant that such person has no goods whereon to levy the distress, or that in the event of a warrant of distress being issued his goods will be insufficient to satisfy the money payable by him, or that the levy of the distress will be more injurious to him or his



family than imprisonment, such court, instead of issuing such warrant of distress, may, if it think fit, order the said person on nonpayment of the said sum to be imprisoned for any period not exceeding the period for which he is liable under such conviction or order to be imprisoned in default of sufficient distress.

(4.) Where on application to a court of summary jurisdiction to issue a warrant for committing a person to prison for nonpayment of a sum adjudged to be paid by a conviction of any court of summary jurisdiction, or in the case of a sum not a civil debt by an order of such court, or for default of sufficient distress to satisfy any such sum, it appears to the court to whom the application is made that either by payment of part of the said sum, whether in the shape of instalments or otherwise, or by the net proceeds of the distress, the amount of the sum so adjudged has been reduced to such an extent that the unsatisfied balance, if it had constituted the original amount adjudged to be paid by the conviction or order, would have subjected the defendant to a maximum term of imprisonment less than the term of imprisonment to which he is liable under such conviction or order, the court shall, by its warrant of commitment, revoke the term of imprisonment, and order the defendant to be imprisoned for a term not exceeding such less maximum term, instead of for the term originally mentioned in the conviction or order.

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## APPENDIX.

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### PART IV.

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#### SCALES OF COSTS AND ALLOWANCES TO WITNESSES.

(1.)

##### LOWER SCALE.

COSTS TO BE PAID TO SOLICITORS IN ACTIONS AND MATTERS, AS WELL BETWEEN PARTY AND PARTY AS BETWEEN SOLICITOR AND CLIENT, WHERE THE AMOUNT RECOVERED EXCEEDS 2*l.* AND DOES NOT EXCEED 10*l.*

1.

Where the particulars and copies are signed pursuant to Order VI., Rule 9, and the amount claimed exceeds 2*l.* and does not exceed 5*l.*, there may be entered upon an ordinary summons, and upon a default summons, FOUR SHILLINGS, unless the latter is to be served by a solicitor, when SEVEN SHILLINGS may be entered.

2.

Where the particulars and copies are signed by a solicitor, and the amount claimed exceeds 5*l.* and does not exceed 10*l.*, there may be entered upon an ordinary summons, and upon a default summons, EIGHT SHILLINGS, unless the latter is to be served by a solicitor, when THIRTEEN SHILLINGS may be entered.

3.

Where the amount recovered exceeds 2*l.* and does not exceed 5*l.*, a solicitor for a plaintiff may be allowed for preparing for and attending trial, or upon an application for a new trial, SEVEN SHILLINGS, and, where the sum recovered exceeds 5*l.* and does not exceed 10*l.*, TEN SHILLINGS.

4.

Where the action is withdrawn, or the amount claimed is paid into court less than five clear days before the return day, there may, if the judge or registrar so orders, be allowed to the solicitor, upon his application, FIVE SHILLINGS, or such portion of the fees for preparing for and attending trial as the judge or registrar may under the circumstances direct.

5.

Where the amount claimed exceeds 2*l.* and does not exceed 10*l.*, there may be allowed to a solicitor, for entering up judgment on a default summons, or under Order IX., Rule 5, THREE SHILLINGS and FOURPENCE.

## 6.

Where the amount claimed exceeds 2*l.* and does not exceed 5*l.*, the solicitor may be allowed, for instructions, preparing defence, and attending trial, TEN SHILLINGS, and, where the sum claimed exceeds 5*l.* and does not exceed 10*l.*, FIFTEEN SHILLINGS, or upon an application for a new trial, SEVEN OR TEN SHILLINGS, according to the amount claimed.

## 7.

Where the action is tried by the judge with or without a jury, the costs of preparing for and attending trial may be increased to a sum not exceeding ONE POUND, on a special order of the judge in such action, to be entered in the Minute Book.

## 8.

The judge may in like actions, by special order to be entered in the Minute Book, allow a fee of 1*l.* 3*s.* 6*d.* for the employment of counsel.

## 9.

Where a trial is adjourned by the court for want of time, one half of the fees mentioned in clauses three and six may be allowed in respect of that day's attendance, if the judge or registrar shall so direct.

## 10.

In the case of a plaintiff where the amount recovered, or in the case of a defendant where the amount claimed, exceeds 2*l.* and does not exceed 5*l.*, the solicitor may be allowed for attending Court when the action is referred THREE SHILLINGS, for attending before the arbitrator TEN SHILLINGS, and for attending Court entering judgment upon the award THREE SHILLINGS, and where the amount claimed or recovered exceeds 5*l.* and does not exceed 10*l.* the sums of SIX SHILLINGS, FIFTEEN SHILLINGS, and SIX SHILLINGS respectively may be allowed.

N.B.—No other costs are to be allowed than the above where the amount claimed does not exceed 10*l.*, unless the judge certifies under section 119 of the County Courts Act, 1888, or otherwise orders pursuant to Order LIII.

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(2.)

## HIGHER SCALE.

COSTS TO BE PAID TO SOLICITORS IN ACTIONS AND MATTERS, AS WELL BETWEEN PARTY AND PARTY AS BETWEEN SOLICITOR AND CLIENT, WHERE THE SUBJECT MATTER OR THE SUM RECOVERED EXCEEDS 10%.

	Where the Subject Matter or the Sum recovered exceeds					
	£	s.	d.	£	s.	d.
	10	0	0	20	0	0
	and does not exceed			Exceeds		
	20	0	0	50	0	0
	A.		B.		C.	
	£	s.	d.	£	s.	d.
<i>Plaint, Particulars, Summonses, and Notices.</i>						
1. Preparing particulars of claim or counter-claim where the claim is a liquidated demand, including necessary copies; provided that such particulars and copies are signed pursuant to Order VI., Rule 9 ... ..	0	4	0	0	7	0
2. The like in all other claims, or for preparing statement of claim or defence or preliminary act in Admiralty action...	0	6	0	0	12	0
3. Drawing petition, or reply in Admiralty action, per folio...	0	1	0	0	1	0
Not exceeding, except by order of the judge ... ..	0	10	0	1	5	0
4. Preparing further particulars, when same required by defendant under Order VI., Rule 7, or by plaintiff, under Order X., Rule 11, including copy to file ... ..	0	2	0	0	3	0
Or per folio .. ..	0	0	8	0	0	8
5. Summons or subpoena to witness, including attending for leave to serve and sealing ... ..	—			0	3	0
Or per folio beyond four ... ..	—			—		
6. Summons in chambers, including sealing copy to file and one copy for service ... ..	—			0	3	0
<i>Notices.</i>						
7. Preparing notice to produce or admit, or to admit facts, and one copy ... ..	0	3	0	0	4	0
8. If special or necessarily long, such allowance as the registrar shall think proper, not exceeding per folio ...	—			0	0	8
9. For preparing notice of motion to the court, including copies to file and serve ... ..	0	4	0	0	5	0
10. If necessarily exceeding five folios, at per folio, including copies to file and serve ... ..	—			0	1	0
11. For preparing notice of any application to judge or registrar, when required, not being <i>ex parte</i> , including copies to file and serve ... ..	—			0	3	0
12. For preparing any other necessary or proper notice or demand, not otherwise provided for, including copies to file and serve ... ..	—			0	1	6
13. Or if special, and necessarily exceeding three folios, there may be allowed in the registrar's discretion, for each folio beyond three, including copy to file ... ..	—			0	1	0

	Where the Subject Matter or the Sum recovered exceeds					
	£	s.	d.	£	s.	d.
	10	0	0	20	0	0
	and does not exceed			Exceeds		
	20	0	0	50	0	0
	A.			B.		
	C.					
	£	s.	d.	£	s.	d.
<i>Service.</i>						
<i>Note.</i> —Where any two or more summonses, orders, interrogatories, notices, or demands, have or could have been served together, one fee only for service is to be allowed.						
14. Service of a summons (not being a judgment summons), order, notice, or document required by statute or rule or by order to be served personally, including copy ...	0	5	0	0	5	0
15. If served at a distance of more than two miles from the nearest place of business of the solicitor serving the same, for each mile beyond such two miles therefrom, but not to exceed 10 miles ...	0	0	6	0	0	6
16. Where in consequence of the distance of the party to be served, it is proper to effect service through an agent, for correspondence, in addition ...	—	—	—	0	7	0
17. When substituted service ordered, in addition, to include all costs of attendances, making appointment to serve, drawing, engrossing, attending to swear, and to file all affidavits, and the fees paid for oath, and obtaining order, not exceeding ...	0	10	0	1	0	0
18. Service of any summons, subpoena, interrogatories, order, notice, or demand, if not authorised to be served by post ...	—	—	—	0	2	6
19. If authorised to be served by post ...	—	—	—	0	1	6
19a. For service of a summons or notice of a summons out of England and Wales, under Order VII., Rules 41 to 48, to include all costs of attendances, drawing, engrossing, attending to swear and to file all affidavits, and the fees paid for oaths and obtaining order, such sum as the registrar shall think reasonable in the circumstances of the case.						
<i>Instructions.</i>						
20. To sue or defend, or to prefer or oppose claim in interpleader proceedings, or for a petition, or for a garnishee summons, or for payment into court by garnishee ...	0	3	4	0	6	8
21. For counter-claim ...	0	3	4	0	6	8
22. For interrogatories, or for statement of claim, defence, reply, or preliminary act in Admiralty action ...	—	—	—	0	6	8
23. For affidavit in answer to interrogatories, or other special affidavits ...	—	—	—	0	6	8
<i>Note.</i> —The charge for special affidavits is not to be allowed, if in the opinion of the registrar the facts upon which the affidavits are founded had already become known to the solicitor or his clerks in course of the business.						
24. For confession of debt or claim by defendant, and attesting signature thereto ...	—	—	—	0	6	8
25. For application to add parties... ..	—	—	—	0	3	4
26. For counsel to advise on evidence ... ..	—	—	—	0	3	4
27. For brief on interlocutory motion or application, where counsel allowed ... ..	—	—	—	0	6	8
28. For brief on trial of action or matter, where counsel employed, such fee as the registrar may think fit, having regard to all the circumstances of the case ... ..	—	—	—	0	10	6
<i>Note.</i> —Great care must be exercised in assessing this item, see Order LIII., Rule 23.						
29. Examining and taking minutes of evidence where no counsel employed, for each witness afterwards allowed on taxation, or properly examined for preparation of preliminary act...	0	2	0	0	3	4
30. If exceeding six folios, for each additional folio ... ..	0	0	6	0	1	0

	Where the Subject Matter or the Sum recovered exceeds		
	£ s. d.	£ s. d.	£ s. d.
	10 0 0	20 0 0	Exceeds
	and does not exceed	50 0 0	50 0 0
	A.	B.	C.
	£ s. d.	£ s. d.	£ s. d.
31. In the cases mentioned in Order LIII., Rule 8, where no counsel employed, if the judge so orders, in addition to items 29 or 30, for preparation of minutes of fact or argument ... ..	—	1 1 0	2 2 0
<i>Drawing.</i>			
<i>Note.</i> —The matter of all documents should be necessary and relevant, and expressed without prolixity, and the costs of all unnecessary, irrelevant, and prolix matter must be disallowed.			
32. Notice and particulars of special defence or admission of facts, or any application under Order XL., Rules 2, 5 or 7, including necessary copies ... ..	0 3 0	0 5 0	0 6 8
Or per folio beyond three ... ..	—	0 1 0	0 1 0
33. Draft of order under Order XII., Rule 8, including copy to file ... ..	—	0 3 0	0 5 0
Or per folio... ..	—	0 0 8	0 0 8
34. Brief on trial of action or matter where counsel employed, including necessary and proper observations, per folio ... }	0 1 0 not exceeding 0 10 0	} 0 1 0	} 0 1 0
35. Brief on any motion, application, or upon further consideration, when counsel allowed by judge ... ..	—		
36. Interrogatories or answers thereto, including copy to file... ..	0 2 6	0 5 0	0 6 8
Or per folio ... ..	0 0 6	0 1 0	0 1 0
37. Affidavit of documents, or any other special affidavit, including engrossing ... ..	0 2 6	0 5 0	0 5 0
Or per folio ... ..	0 0 6	0 1 0	0 1 0
38. Affidavit of debt under section 86 of the County Courts Act, 1888, or Order XXVI., including engrossing, attending deponent to be sworn, oath, and filing ... ..	0 4 0	0 6 8	0 6 8
39. Affidavit, when required, of personal service of a summons, notice, or document, including engrossing, attending to be sworn, oath, and filing ... ..	0 3 4	0 5 0	0 6 8
40. Affidavit, when required, of service of summons to witness, subpoena, or of any notice under Order XVIII., Rule 7, or of signature to admission under Order IX., Rule 9, including engrossing, attending to be sworn, oath and to file ...	0 2 0	0 2 0	0 3 4
41. Accounts, statements, and other documents for use in chambers when required, or in court when required by judge, including fair copy to leave, per folio ... ..	—	0 0 8	0 0 8
42. Bill of costs for taxation, including copy for registrar, per folio ... ..	0 0 4	0 0 8	0 0 8
<i>Copies.</i>			
<i>Note.</i> —No copies are to be allowed for unless the registrar is satisfied that they were necessary, and that copies previously prepared were not available.			
43. Of necessary documents to accompany brief, per folio ...	—	0 0 4	0 0 4
44. Where no provision is made herein that the fee for preparing, drawing, or serving any document is to include copies thereof, for each copy the registrar may consider necessary, per folio ... ..	—	0 0 4	0 0 4

		Where the Subject Matter or the Sum recovered exceeds					
		£	s.	d.	£	s.	d.
		10	0	0	20	0	0
		and does not exceed				Exceeds	
		20	0	0	50	0	0
		A.		B.		C.	

*Perusals.*

		£	s.	d.	£	s.	d.	£	s.	d.
<i>Note.</i> —Charges for perusals are not to be allowed, except under item 53, where the same solicitor is acting for both parties, or where the solicitor has been previously allowed for such perusal.										
45.	Of particulars of claim or counter claim, further particulars delivered under Order VI., Rule 7, or special defence, by the solicitor of the party to whom the same are delivered ... ..	—			0	3	4	0	6	8
	Or per folio ... ..	—			0	0	4	0	0	4
46.	Of any petition ... ..	—			0	3	4	0	6	8
	Or per folio ... ..	—			0	0	4	0	0	4
47.	Of interrogatories, by the solicitor of the party by whom the same are to be answered ... ..	0	4	0	0	6	8	0	6	8
	Or per folio ... ..	—			—			0	0	4
48.	Of notice to produce or admit or to admit facts, by the solicitor of the party served ... ..	—			0	5	0	0	6	8
49.	Of notice of defendant's claim against any person not a party to the action, under Order XI. ... ..	—			0	3	4	0	6	8
50.	Of any claim, defence, or counterclaim, when served on a person not originally a party to the action, by the solicitor of the party served therewith ... ..	—			0	3	4	0	6	8
	Or per folio ... ..	—			0	0	4	0	0	4
51.	Of affidavit in answer to interrogatories by the solicitor of the party interrogating, or of statement of claim, defence, reply, or preliminary act in Admiralty action, by the solicitor to the adverse party, per folio ... ..	—			0	0	4	0	0	4
52.	Of other special affidavits, by the solicitor of the party against whom the same can be read, per folio ... ..	—			0	0	4	0	0	4
53.	Draft of special order or judgment, when prepared by registrar ... ..	—			0	3	4	0	6	8
	Or per folio ... ..	—			0	0	4	0	0	4

*Attendances.*

<i>Note.</i> —More than one attendance at the office of the registrar in an action or matter shall not be allowed, unless the registrar on taxation is satisfied that each separate attendance was necessary.										
54.	To enter plaint, or file petition, including filling up præcipe, obtaining any necessary leave from the registrar, or giving any proper undertaking prior to such entry or filing ...	0	3	4	0	6	8	0	6	8
55.	To deliver or file any counter-claim, special defence, further particulars, answers to interrogatories, admission of facts, affidavit of documents, or particulars of claim in interpleader proceedings, or statement of claim, defence, or reply in Admiralty action, or to file or inspect preliminary act ... ..	—			0	3	4	0	3	4
56.	To lodge order, &c. when action or matter remitted or transferred to county court, including preparing all necessary documents ... ..	—			0	13	4	0	13	4
57.	To inspect, or produce for inspection, documents pursuant to a notice to admit, or pursuant to any order or a notice under any rule ... ..	0	3	4	0	6	8	0	6	8
	Or per hour ... ..	—			0	6	8	0	6	8

*Note.*—This item is not to be allowed, unless it is shown to the satisfaction of the registrar that there were good and sufficient reasons for giving the notice and making the inspection.

	Where the Subject Matter or the Sum recovered exceeds					
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	Exceeds	£ s. d.
	10 0 0	20 0 0	20 0 0	50 0 0	50 0 0	50 0 0
	A.	B.	C.	D.	E.	F.
58. Where solicitor inspecting does not reside or carry on business within two miles of place of inspection, in addition, sum paid for locomotion not exceeding ...	—	1 0 0	1 0 0	—	—	—
59. To obtain or give any necessary or proper consent or admission ...	—	0 3 4	0 6 8	—	—	—
60. On examination of witnesses under Order XVI., Rule 9, Order XVIII., Rules 18 and 20, or Order XXV., Rule 71, per hour ...	0 3 4	0 6 8	0 10 0	—	—	—
61. On deponents being sworn, or by a solicitor or his clerk to be sworn to an affidavit in answer to interrogatories, or other special affidavit ...	—	0 3 4	0 6 8	—	—	—
62. To enter up judgment by default, or under Order IX., Rule 5, or to pay money into court on behalf of garnishee ...	0 3 4	0 3 4	0 3 4	—	—	—
63. Where, in consequence of anything done by the opposite party during the progress of an action or matter, it becomes necessary to advise or receive instructions from a client, for each attendance the registrar may deem absolutely necessary ...	—	0 6 8	0 6 8	—	—	—
64. To make or oppose any interlocutory application or motion before the judge in court, or in chambers, without counsel ...	{ 0 5 0 to 0 10 0	{ 0 6 8 to 0 13 4	{ 0 10 0 to 1 1 0 0 6 8 0 10 0	—	—	—
65. The like with counsel ...	0 3 4	0 6 8	{ 0 6 8 to 0 10 0	—	—	—
66. On any interlocutory application to the registrar ...	0 2 0	0 3 4	0 6 8	—	—	—
67. On counsel with brief ...	0 3 4	0 3 4	0 6 8	—	—	—
68. To appoint conference and attending thereon ...	—	0 6 8	0 13 4	—	—	—
69. At court, conducting cause without counsel ... <i>Note.—The minimum must not be exceeded if the action is undefended or there is no real contest.</i>	0 15 0	1 1 0	{ 1 1 0 to 2 2 0	—	—	—
70. Or, in the cases mentioned in Order LIII., Rule 8, by order of the judge, there may be allowed instead of last item ...	1 1 0	2 2 0	3 3 0	—	—	—
71. At court on trial with counsel ... <i>Note.—The minimum must not be exceeded if the case is undefended or there is no real contest, nor if the solicitor does not attend in person.</i>	0 10 0	{ 0 15 0 to 1 1 0	{ 1 1 0 to 2 2 0	—	—	—
72. Where trial is commenced, but not concluded on the day on which it is first heard, for each day or part of a day on which it is afterwards heard, with or without counsel, unless otherwise ordered by the judge ...	0 10 0	{ 0 15 0 to 1 1 0	{ 1 1 0 to 2 2 0	—	—	—
73. Where the trial is adjourned for want of time, or upon payment of the costs of the day, in lieu of items 69 and 71 there may be allowed with or without counsel, unless ordered otherwise by the judge ... <i>Note.—The minimum must not be exceeded, under items 72 and 73, if the solicitor does not attend in person.</i>	0 10 0	{ 0 15 0 to 1 1 0	{ 1 1 0 to 2 2 0	—	—	—
74. When solicitor does not reside or carry on business within two miles of the town in which the trial takes place, in addition the sum paid for locomotion to attend the trial, not exceeding, unless otherwise ordered by the judge ...	—	1 1 0	1 1 0	—	—	—
75. When, in the opinion of the registrar, the solicitor cannot travel to and from the court the same day, in addition ... [Items 73, 74 and 75 are not to be allowed in full if the solicitor is engaged in any other case or cases on the same day, but such portion only as the registrar shall think just and reasonable, having regard to all the circumstances.]	—	1 1 0	1 1 0	—	—	—



	Where the Subject Matter or the Sum recovered exceeds		
	£ s. d.	£ s. d.	£ s. d.
	10 0 0	20 0 0	Exceeds
	and does not exceed	50 0 0	50 0 0
	A.	B.	C.
	£ s. d.	£ s. d.	£ s. d.
76. At court where the amount claimed is paid into court, or the action is withdrawn or discontinued, less than five clear days before return day ... ..	0 5 0	0 10 0	0 10 0
77. Where in ordinary course of post or delivery notice of payment, withdrawal or discontinuance does not reach the opposite party or his solicitor in time to prevent attendance of the latter at court, such sum as the registrar shall think reasonable, not exceeding the minimum fee in items 69 or 71, as the case may be.			
78. To hear a deferred judgment ... ..	—	0 6 8	0 6 8
79. Before an arbitrator, or on an inquiry or Admiralty reference before the registrar, for each sitting ... ..	0 15 0	1 1 0	$\left\{ \begin{array}{l} 1 \ 1 \ 0 \\ \text{to} \\ 2 \ 2 \ 0 \end{array} \right.$
80. The like with counsel, if judge certifies for counsel ...	0 10 0	0 15 0	1 1 0
81. Where sitting exceeds three hours, for every additional hour ... ..	0 5 0	0 6 8	0 10 0
81a. See Order LIII., Rule 10.			
82. On taxation of the costs of the action or matter after trial or hearing ... ..	0 3 4	0 6 8	$\left\{ \begin{array}{l} 0 \ 6 \ 8 \\ \text{to} \\ 0 \ 13 \ 4 \end{array} \right.$
83. Any other attendance upon the judge or registrar, or at the registrar's office, or upon the opposite party, or upon the high bailiff in interpleader proceedings, not otherwise provided for, which the registrar may think to have been absolutely necessary, and not for a purpose which could have been effected at any previous or subsequent attendance allowed ... ..	—	$\left\{ \begin{array}{l} 0 \ 3 \ 4 \\ \text{to} \\ 0 \ 6 \ 8 \end{array} \right.$	$\left\{ \begin{array}{l} 0 \ 6 \ 8 \end{array} \right.$
84. On taxation of any other costs allowed by order of judge, where such taxation necessarily takes place at some time other than at the time the order giving the costs sought to be taxed was made, to include drawing bill, copies, notice, and service ... ..	—	0 4 0	0 6 0
<i>Fees to Counsel.</i>			
<i>Note.</i> —Fees to counsel are not to be allowed unless the payment of them is vouched by the signature of counsel.			
85. With brief, sum paid, not to exceed ... ..	2 4 6	3 5 6	5 10 0
<i>Note.</i> —The maximum is not to be allowed as of course, but in assessing the fee to be allowed, the length of the brief, the documents (if any) to be perused and considered, the number of the witnesses, and the difficulties of fact or law involved, must be considered.			
86. In the cases mentioned in Order LIII., Rule 8, where there is no local bar in the court town, or within twenty miles thereof, a further fee may be allowed, once only, by order of the judge, if in his opinion the maximum fee allowable on the brief is insufficient, not exceeding ... ..	—	2 4 6	2 4 6
<i>Note.</i> —This item is not to be allowed in any court within twenty-five miles of Charing Cross.			
87. On conference, if the fee was marked on the brief when delivered, and in the opinion of the registrar was necessary	—	1 6 0	1 6 0

	Where the Subject Matter or the Sum recovered exceeds					
	£	s.	d.	£	s.	d.
	10	0	0	20	0	0
	and does not exceed			Exceeds		
	20	0	0	50	0	0
	A.			B.		
	£	s.	d.	£	s.	d.
88. Where the trial is commenced, but not concluded on the day on which it is first heard, or is adjourned for want of time, for each day or part of a day on which it is afterwards heard a refresher may be allowed, unless the judge otherwise orders ... ..	1	3	6	1 3 6 to 2 4 6	2 4 6 to 3 5 6	
89. Where the trial is adjourned upon payment of the costs of the day, there may be allowed as part of such costs ...	1	3	6	1 3 6 to 2 4 6	2 4 6 to 3 5 6	
90. With brief on further consideration or argument ... ..	1	3	6	1 3 6 to 2 4 6	2 4 6 to 2 5 6	
91. With brief on any interlocutory motion or application, if the judge certifies for counsel ... ..	—			1 3 6	2 4 6	
92. With brief before an arbitrator, or on an inquiry or Admiralty reference before the registrar, or on an examination of witnesses under Order XVI., Rule 9, Order XVIII. Rules 18 and 20, or Order XXV., Rule 71, if the judge certifies for counsel, not exceeding ... .. <i>Note.</i> —This fee is not to be allowed, if the reference or inquiry was directed at the trial, and counsel was then instructed. A refresher may be allowed instead pursuant to item 88.	—			2 4 6	3 5 6	
93. In the cases mentioned in Order LIII., Rule 8, for settling petition, particulars, statement of claim, defence, or reply; interrogatories, preliminary act, or other matters required in the course of the action or matter, if allowed by order of the judge ... ..	—			1 3 6 to 2 4 6	1 3 6 to 2 4 6	
94. Advising on evidence, if allowed by order of the judge ...	—			1 3 6	2 4 6	
<i>Plans, Models, &amp;c.</i>						
95. Plans, charts, or models for use of the judge at the trial, if allowed by order of the judge, not exceeding in the whole ... ..	1	1	0	2 2 0	3 3 0	
<i>Letters, &amp;c.</i>						
96. Letter before action ... ..	0	3	6	0 3 6	0 3 6	
97. Letters in lieu of attendances which could be properly allowed under item 63 ... ..	—			0 3 6	0 3 6	
98. Circular letters ... ..	—			0 1 0	0 1 0	
99. Costs for searches for certificates of births, marriages, and deaths, and payments therefor, and other disbursements in relation to procuring office copies or other documentary evidence, not otherwise provided for, which the registrar may upon taxation think necessary and proper, such sum as the registrar shall think reasonable...						
100. Oaths, sums paid, unless otherwise provided for ...						
101. In addition to the above, an allowance may be made for the necessary expenses of postages, carriage and transmission of documents, not exceeding ... ..	—			0 5 0	0 10 0	

(3.)

# SCALES OF ALLOWANCES TO WITNESSES.

## *Ordinary Witnesses.*

	£	s.	d.	£	s.	d.	
Gentlemen, merchants, bankers, and professional men, <i>per diem</i> ... .. from	0	15	0	to	1	1	0
Tradesmen, auctioneers, accountants, clerks, and yeomen, <i>per diem</i> ... .. from	0	7	6	to	0	15	0
Artisans and journeymen, <i>per diem</i> ... .. from	0	4	0	to	0	7	5
Labourers, and the like, <i>per diem</i> ... .. from	0	3	0	to	0	4	0
Females, according to station in life ... .. from	0	2	6	to	0	10	6

## *Expert and Scientific Witnesses.*

	If Costs taxed on Column B of Scale.			If Costs taxed on Column C of Scale.		
	£	s.	d.	£	s.	d.
For qualifying to give evidence ... ..	1	1	0	1	1	0
	to			to		
	3	3	0	5	5	0
Attending court on trial, <i>per diem</i> ... ..	1	1	0	1	1	0
	to			to		
	2	2	0	3	3	0

Scale of allowances for travelling expenses. See Order LIII., Rule 39.

(4.)

# TOTAL OF ITEMS OF COSTS TO BE ENTERED ON SUMMONSES FOR AMOUNTS EXCEEDING 10*l.*, WHERE THE PARTICULARS AND COPIES ARE SIGNED BY THE SOLICITOR.

The total amount to be entered on an ORDINARY SUMMONS shall be the following and no more, viz. :—

	Totals.		
	£	s.	d.
Where the amount sought to be recovered exceeds 10 <i>l.</i> and does not exceed 20 <i>l.</i> , and the claim is a debt or liquidated demand ...	Item 1 ... 0 4 0	} 0 14 2	
	" 20 ... 0 3 4		
	" 54 ... 0 3 4		
	" 96 ... 0 3 6		
In other claims ... ..	Item 2 ... 0 6 0	} 0 16 2	
	" 20 ... 0 3 4		
	" 54 ... 0 3 4		
	" 96 ... 0 3 6		
Where the amount sought to be recovered exceeds 20 <i>l.</i> and does not exceed 50 <i>l.</i> , and the claim is a debt or liquidated demand ...	Item 1 ... 0 7 0	} 1 3 10	
	" 20 ... 0 6 8		
	" 54 ... 0 6 8		
	" 96 ... 0 3 6		

					Totals.		
					£	s.	d.
In other claims ... ..	Item	2	...	0	12	0	
	"	20	...	0	6	8	
	"	54	...	0	6	8	
	"	96	...	0	3	6	
					1		
					8		
					10		
Where the amount sought to be recovered exceeds 50%, and the claim is a debt or liquidated demand ... ..	Item	1	...	0	10	0	
	"	20	...	0	13	4	
	"	54	...	0	6	8	
	"	96	...	0	3	6	
					1		
					13		
					6		
In other claims ... ..	Item	2	...	1	1	0	
	"	20	...	0	13	4	
	"	54	...	0	6	8	
	"	96	...	0	3	6	
					2		
					4		
					6		

The total amount to be entered on a DEFAULT SUMMONS shall be the following and no more; viz. :—

					Totals.		
					s.	d.	£ s. d.
Where the amount sought to be recovered exceeds 10% and does not exceed 20% and service is to be made by a bailiff ... ..	Item	1	...	4	0		
	"	20	...	3	4		
	"	38	...	4	0		
	"	54	...	3	4		
					0		
					18		
					2		
Where service is to be made by a solicitor ... ..	Item	1	...	4	0		
	"	14	...	5	0		
	"	20	...	3	4		
	"	38	...	4	0		
					1		
					3		
					2		
Where the amount sought to be recovered exceeds 20% and does not exceed 50% and service is to be made by a bailiff ... ..	Item	1	...	7	0		
	"	20	...	6	8		
	"	38	...	6	8		
	"	54	...	6	8		
					1		
					10		
					6		
Where service is to be made by a solicitor ... ..	Item	1	...	7	0		
	"	14	...	5	0		
	"	20	...	6	8		
	"	38	...	6	8		
					1		
					15		
					6		

N.B.—Where the amount sought to be recovered exceeds 10%, Items 15 and 17 may be added where the service for which each of them is given is performed.

[NOTE.—Upon judgment being entered upon a default summons for a sum exceeding 10l., only Items 39 and 62 are to be allowed in addition to the above.]

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